

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

ANTHONY A O'HARRA
Claimant

APPEAL NO: 08A-UI-10804-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 09/14/08 R: 02
Claimant: Respondent (2/R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Casey's Marketing Company (employer) appealed a representative's November 6, 2008 decision (reference 04) that concluded Anthony A. O'Harra (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 3, 2008. The claimant participated in the hearing. Shawn Retman, the manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in June 2006. The claimant had been working full-time as a cashier and cook. In May 2008, the claimant asked for part-time instead of full-time hours because he had another job.

During his employment, the claimant did not believe the employer treated him fairly. When the claimant talked to Retman about his frustrations, she did not understand he was frustrated as the result of work-related issues. The claimant did not like the fact that he filled in when other employees called off work or did not work as scheduled, but when he tried to find someone to work his shift, he was not successful. The claimant was also frustrated because he believed that because he was one of the younger employees, he ended up with the less desirable jobs and shifts.

On June 26, 2008, the claimant was scheduled to work in the kitchen until 11:00 p.m. The claimant thought he completed all his job duties in the kitchen and closed it at 10:30 p.m. The claimant left work around 11:00 p.m. as he was scheduled to do. On June 27, the assistant

manager and Retman called the claimant at his home. They told the claimant he had not prepped the vegetables that needed prepping the night before and told him to report to work. Instead of reporting to work on Friday to prep vegetables, the claimant quit his employment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code section 96.6-2.

The law presumes a claimant quits employment without good cause when he leaves after being reprimanded. 871 IAC 24.25(28). The facts establish the claimant had been thinking about quitting prior to June 26 because he had a second job and did not believe the employer treated him fairly because of his age. The claimant acknowledged that if the assistant manager and Retman had not called him the morning of June 27 reprimanding for not completing his job the night before and telling him that he needed to come back to work, he would not have quit that day. The claimant was frustrated after he received the Friday morning phone calls because he thought he completed all the work he had to get done the night before. The employer's phone calls that morning amount to a reprimand which frustrated the claimant.

The claimant established personal reasons for quitting. The facts do not, however, establish that the claimant quit his employment for reasons that qualify him to receive benefits. He quit his employment after the employer reprimanded him for not completing his job duties the night before. As of September 14, 2008, the claimant is not qualified to receive benefits.

DECISION:

The representative's November 6, 2008 decision (reference 04) is reversed. The claimant voluntarily quit his employment for personal reasons. His reasons for quitting do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 14, 2008. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The issues of overpayment and whether the claimant is eligible for a waiver of overpayment are remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs