

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BILLIE J BEHRENDT
Claimant

APPEAL NO: 13A-UI-07076-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 05/19/13
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 10, 2013 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing. Cathy Harper, the store manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in November 2010 as a cashier and a cook. On May 23, 2013, the claimant and another kitchen employee worked to and were unloading a truck. When kitchen employees started cooking shrimp, the claimant became nauseous. She told Harper she had gotten sick and cleaned up the restroom. The claimant continued to unload the truck.

Around noon when the claimant asked if the kitchen employee could continue to help her unload the truck, Harper denied this request because the kitchen employee was needed to work in the kitchen. After Harper denied the claimant's request for help unloading the truck, the claimant told Harper she was going home. Harper told the claimant that if she left, she would not have a job. The claimant left work at about an hour early. While Harper believed the claimant was upset because no one could help her unload the truck the last hour of her shift, the claimant asserted she left because she did not feel well.

Prior to May 23, 2013, the claimant received a final warning for attendance issues. The warning informed her that if she missed any more work without first earning more time off, she would be discharged.

The claimant contacted the district manager about Harper's comments to her. The district manager informed the claimant she was suspended until the employer could talk to her the following Tuesday. On May 28, the employer informed the claimant she no longer worked for the employer.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. When the claimant made the decision to leave work early without authorization, she quit her employment. When a claimant quits, she has the burden to establish she leaves employment with good cause. Iowa code § 96.6(2). Based on the timing of the claimant's request to leave work early, she did not establish that she was so sick she could not have worked another hour to get the truck unloaded. The claimant did not establish good cause for leaving work without authorization after being told that if she left work early she would not have a job.

In the alternative, if the employer discharged her, the claimant's insubordination, her failure to stay until the end of her shift, amounts to work-connected misconduct. The claimant also knew or should have known her job was already in jeopardy for attendance issues.

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Under either scenario, a voluntary quit or a discharge, as of May 19, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's June 10, 2013 determination (reference 01) is affirmed. The claimant made the decision to end her employment when she left work early and knew that if she left before the end of her shift she would not have job. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. As of May 19, 2013, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification

continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css