

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SARAH J SCHRAMM**

Claimant

**APPEAL NO. 11A-UI-02904-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 01/23/11**

**Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Casey's Marketing Company/Casey's General Store (claimant) appealed a representative's February 28, 2011 decision (reference 01) that concluded Sarah J. Schramm (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 31, 2011. The claimant participated in the hearing. Anita Thompson 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 for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on January 25, 2010. As of about April 1, 2010, she worked full-time as assistant manager at one of the employer's West Des Moines, Iowa stores. Her last day of work was December 29, 2010. On December 30 she indicated to the employer that she would not return to work indefinitely, and subsequently turned in her keys and indicated she would not be returning at all.

The claimant determined to quit her employment in order to move back to Nebraska. The claimant had been a victim of an attempted murder in Nebraska and had come to Iowa during the pendency of her assailant's trial. The assailant was convicted. The claimant, her family, and the Nebraska state authorities had some concern that the claimant could still be in some jeopardy if the assailant's family learned where she was. On December 30 the claimant's mother happened to do a routine "person find" check on the Internet, and found that the claimant's current address was available online. She immediately called the claimant (over age 18) and told her that she was coming to bring the claimant back to Nebraska. The claimant contacted the Nebraska authorities, and the investigator recommended that she would need to return to Nebraska in order for the state authorities there to provide protection. As a result, the claimant determined to end her employment and return to Nebraska. There is no evidence the claimant faced any threat of violence in her employment, and her job was not in jeopardy had she determined to remain in the employment.

The claimant established a claim for unemployment insurance benefits effective January 23, 2011. The claimant has received unemployment insurance benefits after the separation.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause attributable to the employer.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant did indeed have a compelling personal reason for leaving. However, that reason was not attributable to the employer, and her absence from the employment exceeded ten days. 871 IAC 24.25(2), (20). The claimant has not satisfied her burden. Benefits are denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of determining the amount of the overpayment and whether the claimant is eligible for a waiver of overpayment under Iowa Code § 96.3-7-b is remanded to the Claims Section.

**DECISION:**

The representative's February 28, 2011 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of December 30, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

---

Lynette A. F. Donner  
Administrative Law Judge

---

Decision Dated and Mailed

ld/kjw