

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LAURA M HILEMAN Claimant CASEY'S MARKETING COMPANY Employer	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO: 08A-UI-11433-DT</div> <div>ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 11/02/08 R: 03 Claimant: Respondent (5)</div>
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Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Casey's Marketing Company (employer) appealed a representative's November 26, 2008 decision (reference 01) that concluded Laura M. Hileman (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 18, 2008. The claimant participated in the hearing. Jackie Beaker 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:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on November 28, 2007. She worked full time as a clerk and kitchen help in the employer's Osceola, Iowa convenience store. While she occasionally worked evening shifts, she more frequently worked approximately eight-hour shifts that were concluded by 4:00 p.m. The claimant's last day of work was on or about September 1, 2008.

On September 3 the claimant suffered a blackout while at home. As a result, her doctor excused her from work through September 22. She was released to return to work as of September 23, with the only restriction being that she should not work in the kitchen for the time being in case of a further blackout. On about September 22 the claimant met with the store manager, Ms. Beaker, to discuss her return to work. Since the claimant could not work in the kitchen, for that week, starting September 23, Ms. Beaker scheduled the claimant to work a 7:00 p.m. to 11:00 p.m. each weeknight. In addition to not being scheduled for her regular full-time hours, the claimant explained that their home recently had been the target of several break-ins and attempted break-ins, and she could not responsibly leave her 13-year-old daughter home alone and therefore could not work that schedule. She asked Ms. Beaker to schedule her to work during daytime hours or on weekends at least for a few weeks until other

weeknight care could be arranged, but Ms. Beaker advised the claimant that she had made enough accommodations for her and that she would not or could not make any further accommodation. As a result, the claimant did not return to work with the employer.

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. A substantial change in contract of hire is recognized as grounds that are good cause for quitting that is attributable to the employer. 871 IAC 24.26(1).

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988); Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). While the employer may have had a good business reason for not returning the claimant to the same or a comparable position and allowing her to work daytime hours, the change in the claimant's job duties which had been implemented was a substantial change in the claimant's contract of hire. Dehmel, supra. Benefits are allowed.

DECISION:

The representative's November 26, 2008 decision (reference 01) is modified with no effect on the parties. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs