

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DEBORAH M OSTRANDER
Claimant

APPEAL NO. 18A-UI-03981-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 03/04/18
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Deborah Ostrander filed a timely appeal from the March 21, 2018, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the Benefits Bureau deputy's conclusion that Ms. Ostrander voluntarily quit on March 8, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on April 23, 2018. Ms. Ostrander participated. Kevin Kloser represented the employer and presented additional testimony through Rose Hanson. Exhibits 1, 2 and 3 were received into evidence.

ISSUE:

Whether Ms. Ostrander's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Deborah Ostrander was employed by Casey's Marketing Company as a full-time kitchen employee at a Casey's store in Dubuque from February 2017 until March 8, 2018, when she voluntarily quit. Rose Hanson, Store Manager, hired Ms. Ostrander and was Ms. Ostrander's immediate supervisor throughout the employment. Ms. Ostrander's usual work hours were 6:00 a.m. to 2:00 p.m., five days per week. The store also employed a donut maker, Sarah, whose usual work hours were 3:00 a.m. to 10:00 a.m. The store also employed a submarine sandwich maker, Ashley. Each of the kitchen staff were expected to help with kitchen duties as needed and were cross-trained for that purpose. Ms. Ostrander's duties included making pizzas, preparing food for the food warmers and monitoring food in the food warmers, making pizza dough, making burgers and salads as needed, washing dishes and mopping floors. Sarah the donut maker's duties included making donuts, making breakfast items for the warmers, counting donuts and cookies, and washing dishes, and otherwise helping as needed.

On Thursday, March 8, 2018, Ms. Ostrander walked off the job at 8:30 a.m. because she thought she was being asked to perform more than her share of the kitchen work. Thursdays were truck/freight days. During the last several Thursdays of Ms. Ostrander's employment, Sarah the donut maker needed to leave earlier than 10:00 a.m. so that she could transport her

boyfriend to work. The boyfriend was a Casey's Food Service Manager at another Casey's store. Ms. Hanson approved Sarah's early departures. On March 8, Sarah needed to leave earlier than usual. Before Sarah left, she made donuts and washed most but not all of the dishes she had used to make donuts. On that morning, Ms. Ostrander was upset by Sarah's early departure, by Sarah leaving some dishes to finish up, and by there being insufficient pizza dough made to cover Ms. Ostrander's shift. Making pizza dough was a simple, streamlined process that involved pouring water and pre-mixed dry ingredients into the mixer bowl, starting the mixer, and transferring the dough to buckets once the mixer stopped. Once the mixer started, the dough-making employee could move on to other work until the mixer was done mixing the dough. On that morning, Ms. Ostrander asked Sarah to make pizza dough before Sarah left. Sarah bluntly refused. Ms. Hanson was waiting on customers at the front of the store. Ms. Ostrander interrupted Ms. Hanson while Ms. Hanson was waiting on a customer and demanded that Ms. Hanson order Sarah to make pizza dough. Ms. Hanson finished waiting on the customer. Ms. Hanson did not order Sarah to make pizza dough. Another kitchen employee, Ashley, was scheduled to report for work at 9:00 a.m. While Ashley's primary duties were making submarine sandwiches, her duties also included otherwise assisting in the kitchen as needed. At about 7:30 a.m., Ms. Ostrander announced that she was walking out at 8:30 a.m. At about 8:00 a.m. Kevin Kloser, Area Supervisor, arrived at the Casey's store and began working in the office. At 8:30 a.m., Ms. Ostrander walked past the office door as she walked off the job.

Ms. Ostrander's decision to walk off the job was also based on her belief that Ms. Hanson harassed her by speaking about her when she was not present, by her belief that Ms. Hanson regularly assigned her a disproportionate amount of the kitchen work, and by her belief that Ms. Hanson let other kitchen employees leave early on a regular basis thereby leaving additional work for Ms. Ostrander to perform.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Administrative Code rule 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

Iowa Admin. Code r. 871-24.25(21) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

Iowa Admin. Code r. 871-24.25(22) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(22) The claimant left because of a personality conflict with the supervisor.

Iowa Admin. Code r. 871-24.25(27) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(27) The claimant left rather than perform the assigned work as instructed.

The evidence in the record establishes a voluntary quit that was without good cause attributable to the employer. It is not uncommon for employees to feel that they are shouldering more than their share of assigned work. The evidence establishes that Sarah's earlier than usual departure on March 8 did indeed result in a small amount of additional work falling to Ms. Ostrander. That additional work included finishing up a few dishes that Sarah left behind and having to make pizza dough while performing other regular morning tasks. While one can understand why Ms. Ostrander would not be pleased with the additional work, the situation did not rise to the level of intolerable and/or detrimental working conditions that would have prompted a reasonable person to leave the employment. Ms. Ostrander's concern that Ms. Hanson may have spoken about her outside her presence also did not constitute an

intolerable and/or detrimental working condition that would have prompted a reasonable person to feel compelled to leave the employment. The evidence fails to support Ms. Ostrander's assertions that she was being harassed. The evidence establishes instead a quit due to dissatisfaction with the work environment, dissatisfaction with the assigned duties, and dissatisfaction with the supervisor.

Because the evidence establishes a voluntarily quit [without good cause attributable to the employer, Ms. Ostrander is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. Ms. Ostrander must meet all other eligibility requirements. The employer's account shall not be charged

DECISION:

The March 21, 2018, reference 01, decision is affirmed. The claimant voluntarily quit the employment on March 8, 2018 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs