

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY W MCCALL
Claimant

APPEAL NO. 13A-UI-09581-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING CO
Employer

OC: 12/30/12
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 7, 2013, (reference 05) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on September 24, 2013. Claimant participated. Employer participated through Becca Ricard, Store Manager.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a kitchen employee beginning on January 7, 2013 through July 19, 2013, when he voluntarily quit. One of the claimant's coworkers complained that the claimant was sending her inappropriate text messages indicating he loved her and wanted to be with her. The coworker complained to a manager. The manager reported the situation to a supervisor who contacted the claimant to begin an investigation. The coworker did not feel comfortable working alone with the claimant based on the texts he had been sending her. The coworker had asked the claimant to stop sending her the texts and that she was not interested in him. The employer was obligated to investigate the coworker's complaints of harassment by Mr. McCall. The claimant admitted to Ms. Ricard that he had sent inappropriate texts to the female coworker but thought it was ok because he did it when he was off the clock. Ms. Ricard was speaking to the claimant about the allegations when he became angry, took off his hat, his name tag laid them down said "I'm done" and walked out of the business. Ms. Ricard reasonably concluded that the claimant was quitting his job. When Ms. Ricard spoke to the human resources department they told her to tell the claimant the next time she spoke to him that she accepted his resignation of July 19, 2013. The claimant's words and actions would lead a reasonable person to conclude he was quitting his job. The claimant quit because he was angry the employer was investigating allegations made against him by a female coworker.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

871 IAC 24.25(6) and (28) provide:

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 § 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 § 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:

(6) The claimant left as a result of an inability to work with other employees.

(28) The claimant left after being reprimanded.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The employer was obligated to investigate a female coworker's complaints of sexual harassment by the claimant. The administrative law judge is persuaded that the claimant voluntarily quit because he was angry the employer was investigating his texts of love to a coworker done off the clock. The claimant gave evidence of his intention when he took off his hat, name tag, laid them down and walked out saying, "I'm done." While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The August 5, 2013, (reference 05) decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css