

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STANTON, TARRAH, L**  
Claimant

**APPEAL NO. 12A-UI-08974-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 06/10/12  
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 18, 2012, reference 02, decision that denied benefits based on an agency conclusion that she had voluntarily quit on June 29, 2012 without good cause attributable to the employer. After due notice was issued, a hearing was held on August 20, 2012. Claimant participated. Kaylan Thunderman represented the employer. The hearing in this matter was consolidated with the hearing in appeal number 12A-UI-08973-JTT. Exhibits One, Two and Three were received into evidence. The administrative law judge took official notice of the agency's administrative record of benefits disbursed to the claimant, wages reported by the claimant, and the claimant's use of the automated telephonic weekly claims reporting system.

**ISSUE:**

Whether the claimant separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by Casey's marketing company as a part-time cashier from May 2011 and last performed work for the employer on June 28, 2012. At the start of the employment, claimant had worked approximately 30 hours per week, four or five shifts per week. At the start of the employment, the claimant will usually work from 4:00 p.m. to approximately 11:15 p.m. In December 2011, the employer reduced the claimant's work hours to three or four shifts per week and reduced the work hours to 8:00 p.m. to 11:00 p.m. In March 2012, the employer further reduced the claimant's work hours to two or three shifts per week, with the work hours 8:00 p.m. to 11:00 p.m. In May 2012, the employer further reduced the claimant's work hours to 1 to 2 shifts per week, with the work hours 8:00 p.m. to 11:00 p.m. Throughout the employment, the claimant had not made any change to her work availability outside of a maternity leave that occurred in the middle of 2011.

The claimant established a claim for unemployment insurance benefits that was effective June 10, 2012, based on the reduction in work hours. Claimant had an active claim for

unemployment insurance benefits only for the two-week period of June 10, 2012 through June 23, 2012. For each of those two weeks, the claimant reported \$40.00 in wages. Claimant did not refuse any work during those two weeks.

After the claimant worked on June 28, 2012, she did not return for subsequent shifts because she was arrested and incarcerated on a child endangerment charge as of the morning of June 29, 2012. The claimant remained incarcerated until July 23, 2012. At the start of the incarceration, the claimant's fiancé had notified Casey's clerk of the incarceration. The claimant did not notify her supervisor directly of her need to be absent from work. The claimant had been unable to contact the employer directly, due to the incarceration. On July 5, 2012, after the claimant had failed to appear for shifts on June 29, July 2 and July 3, the employer concluded the employment was done.

This employer is the claimant's only base period employer.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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.

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.

When a worker separates from work because they have become incarcerated, the worker is deemed to have voluntarily quit the employment without good cause attributable to the employer. See 871 IAC 24.25(16).

When a worker is absent for three shifts without notifying the employer in violation of the employer's policy, the worker is presumed to have voluntarily quit the employment without good cause attributable to the employer. See 871 IAC 24.25(4).

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

The weight of the evidence in the record establishes a voluntary quit without good cause attributable to the employer effective June 29, 2012, the date the claimant became incarcerated. The employer reasonably concluded the claimant had quit the employment after the claimant failed to appear for three consecutive shifts at the end of June and beginning of July. Based on the voluntary quit, the claimant is disqualified for benefits, effective June 29, 2012, until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits

paid to the claimant for the benefit week ending June 30, 2012 or thereafter. The claimant is not eligible for *reduced* benefits because this employer is the sole base period employer.

**DECISION:**

The Agency representative's July 18, 2012, reference 02, decision is affirmed. Effective June 29, 2012, the claimant voluntarily quit the employment without good cause attributable to the employer. Effective June 29, 2012, 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, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to the claimant for the benefit week ending June 30, 2012 or thereafter. The claimant is not eligible for *reduced* benefits because this employer is the sole base period employer.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs