

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELISSA M MCGHEE**

Claimant

**APPEAL NO. 11A-UI-07752-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 05/08/11**

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

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's June 2, 2011 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for non-disqualifying reasons. The claimant participated in the hearing. Nicole Ott, the store manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in October 2009. The claimant worked as a full-time donut maker. When the claimant started working, the employer had a rodent problem. The claimant's first manager, Adam, tried unsuccessfully to get rid of the rodents. When Ott took over as the store manager, she also tried to get rid of the rodents in the store. Ott used glue traps after she was told these traps would get rid of the rodents. Glue traps did not get rid of the rodents.

The claimant was tired of working with rodents that got into the store. She made a complaint to the health department. The health department inspected the store in late April 2011. The primary area of concern noted by the health inspector was adequate pest control. A professional exterminating company set up bait traps inside and outside the store by early May. When the health inspector checked the store two weeks after the initial inspection, Ott understood she had provided adequate pest control and needed to contact the inspector when holes in the building were repaired.

On May 9, the claimant was out of town when her car broke down. She called an assistant manager around midnight to let the employer she was unable to report to work at 3:30 a.m. that day because of car problems. The claimant reported to work on May 10, 2011.

When Ott came to work on May 10, the claimant told Ott that she could not do this anymore. The claimant meant she could not work with the rodents any longer. Ott went to the kitchen and found a rodent in the bait trap and removed it. The claimant kept pacing in the store and kept saying she could not do this anymore. Ott asked the claimant if she was going to stay or leave. When the claimant looked as if she were leaving, Ott told her that if she left, she would not have a job. Even though the claimant indicated she was not quitting, she repeated that she could not work when there were still mice in the store. The employer took the claimant's store key from the claimant before she left work early and did not return.

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

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The claimant admitted the employer told her that if she left work early, she would not have a job. The claimant ended her employment when she left work early or quit on May 10. When a claimant quits, she has the burden to establish she quit for reasons constituting work-connected misconduct. Iowa Code § 96.6(2).

It is understandable why the claimant was frustrated. The employer had a rodent problem since the claimant started working. Even though the claimant called the health department, the employer finally took the necessary corrective action to get rid of the rodents. As of May 10, a health inspector was satisfied the employer took the appropriate steps to get rid of the rodents and only needed to check the building after some repairs had been made.

It is difficult to understand why the claimant was so upset on May 10. By May 10, bait traps had been set up and the rodents had been caught, which is evidenced by the fact there was one rodent in a bait trap. The evidence does not establish the claimant saw any other rodents the morning of May 10. When the claimant left work early on May 10, she quit for personal reasons. She did not establish she quit for reasons that qualify her to receive benefits.

The claimant's assertion the employer discharged her and also told her that if she left, she did not have a job, is not logical. A preponderance of the evidence establishes the claimant quit by leaving work early even though she knew that if she left work, she would not have a job. As of May 8, 2011, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

### **DECISION:**

The representative's June 2, 2011 determination (reference 01) is reversed. The employer did not discharge the claimant. Instead, the claimant chose to leave work early knowing if she did, she would not have a job. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 8, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The

employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw