

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CANDACE S LAMB**

Claimant

**APPEAL NO. 10A-UI-01818-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 03/29/09**

**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit  
Section 96.6(2) – Timeliness of Appeals

**STATEMENT OF THE CASE:**

Candace Lamb filed an appeal from a representative's decision dated December 9, 2009, reference 07, which held she voluntarily quit her employment with Casey's Marketing Company for no good cause attributable to the employer. After due notice was issued, a hearing was held by telephone on March 15, 2010. Ms. Lamb participated personally and Exhibit A was admitted on her behalf. The employer participated by Bev Wright, Area Supervisor.

**ISSUE:**

The first issue in this matter is whether Ms. Lamb filed a timely appeal. If the appeal is determined to be timely, the issue then becomes whether she was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Ms. Lamb at her address of record on December 9, 2009. An appeal was due by December 19. She went to her local Workforce Development office in Osceola on December 18 and a representative faxed her appeal for her. However, it was faxed to an incorrect number and not received by the Appeals Section. Ms. Lamb re-filed her appeal on February 1, 2010 after she learned that the prior filing had not been received.

Ms. Lamb began working for Casey's on May 29, 2009. She was hired to work weekends only as a donut maker. She last performed services on October 10, 2009. She was scheduled to work October 17 and 18 but requested the time off because she had out-of-town guests. The manager replaced her on the schedule. During the week before October 24 and 25, she gave her manager a statement from her doctor indicating she could not work due to illness. The note did not specify the nature of her illness.

On or about October 28, Ms. Lamb provided the employer another doctor's statement indicating she would be unable to work October 31 and November 1 because of illness. This note also

failed to specify what her illness was. The employer questioned whether she might have H1N1 and wanted her to provide a statement that verified whether she did. The employer was concerned that other employees may have been exposed to the virus. Ms. Lamb declined to do so as she did not feel the employer was entitled to her personal medical information.

Ms. Lamb went to the workplace on November 4 to get her paycheck and was presented with a written warning concerning her attendance. She had been absent June 27, July 4, August 8, October 4, 17, 18, 24, 25, 30, and November 1. It is the employer's policy to discipline an individual when there are three unscheduled absences in a calendar year. The warning did not address the failure to provide more specific details regarding her illness that began October 24. The warning did advise that she could be terminated if she had another unscheduled absence during the coming six months. Ms. Lamb felt the warning constituted harassment and, therefore, quit the employment. Continued work would have been available if she had not quit.

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

An individual has ten days in which to file an appeal from a representative's decision. Iowa Code section 96.6(2). The administrative law judge is satisfied that Ms. Lamb filed her appeal timely. She had it faxed in by someone at her local Workforce Development office prior to the due date. She had no reason to believe it was not transmitted to the proper location. The fax transmittal report from the Osceola office establishes that the appeal was sent but to an incorrect number. Ms. Lamb acted with due diligence in re-filing her appeal once she learned the original had not been received. Because of her good-faith reliance on her local office, it is concluded that her appeal was filed timely. Therefore, the administrative law judge has jurisdiction over the separation issue.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Lamb quit her job with Casey's because she felt the warning she received on November 4 was harassment. She did not feel she should be disciplined regarding the absences of October 17 and 18 because management gave her permission to take the days off. She was already scheduled to work when she requested the time off and, therefore, they were unscheduled absences. She did not feel she should be disciplined regarding the absences beginning October 24 as they were due to illness and were verified by doctor's statements. The fact remains that the absences were unscheduled.

An employer has a duty to notify an individual if her attendance is jeopardizing continued employment. Warnings serve to put the employee on notice that steps need to be taken to conform to the employer's attendance standards. Even if absences are for legitimate medical reasons, they may still exceed an employer's standards. For these reasons, the warning given to Ms. Lamb did not constitute harassment as it only served to put her on notice that her attendance was a problem. Whether she would have been discharged at some future point because of attendance was speculative at the time she quit.

Ms. Lamb also felt the employer's request for details of her illness constituted harassment. The employer had a legitimate business reason for wanting to know the nature of her illness. She worked with food product and around other individuals. The employer had a right to know if she had a condition that might impact food safety or effect other employees. However, once Ms. Lamb refused to provide details, the employer did not make an issue of it. The failure to provide more details was not part of the reprimand she received on November 4.

Ms. Lamb quit her employment after being reprimanded. An individual who leaves employment under such circumstances is presumed to have quit without good cause attributable to the employer. 871 IAC 24.25(28). Ms. Lamb has not overcome the presumption and, therefore, her separation was a disqualifying event. An individual who voluntarily quits part-time employment for no good cause attributable to the employer may still receive job insurance benefits if there are sufficient other wage credits in the base period of the claim. Since Casey's is not a base period employer on the current claim, wages earned in the employment have not been used to determine Ms. Lamb's entitlement to benefits. Because she is monetarily eligible for benefits without inclusion of the Casey's wages, benefits are allowed. Casey's will not be charged for benefits paid to Ms. Lamb on this or future claims.

**DECISION:**

The representative's decision dated December 9, 2009, reference 07, is hereby affirmed. Ms. Lamb voluntarily quit her employment with Casey's for no good cause attributable to the employer but has sufficient other wage credits to establish a valid claim. Benefits are allowed, provided she is otherwise eligible. Casey's will not be charged for benefits paid to Ms. Lamb.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs