

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

DENYS M HUNSICKER  
316 S PARK ST  
STUART IA 50250

CASEY'S MARKETING COMPANY  
CASEY'S GENERAL STORE  
3455 MILL RUN DR  
HILLIARD OH 43026

CASEYS MARKETING CO  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166 0283

Appeal Number: 05A-UI-02041-H2T  
OC: 01-02-05 R: 01  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 17, 2005, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on March 14, 2005. The claimant did participate. The employer did participate through (representative) Donna McFarland, Manager and Shelia Carty, Cashier.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a cashier part time beginning November 18, 2003 through November 16, 2004 when she voluntarily quit. The claimant finished her shift and learned that

she would not be receiving training in the kitchen as another new employee had been hired. The claimant was hired to work as a cashier only and had never been promised any kitchen job. When the claimant found out that another employee had been hired to work in the kitchen and that she would not be allowed to work in the kitchens, she said, "I quit." On November 16, 2004 the claimant told Sheila Carty that she quit, that she was done and was unhappy that she was not being trained to work in the kitchen. The claimant has received unemployment insurance benefits after the separation.

#### REASONING AND CONCLUSIONS OF LAW:

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

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2 (amended 1998). The claimant quit because she was unhappy that she was not allowed to work in the kitchen. The claimant was not allowed to work in the kitchen because her hands and fingernails were dirty with grease. The claimant clearly indicated she was leaving her job on November 16, 2004 by saying "I'm not coming back and I quit." It was not up to the employer to wait to see if the claimant was going to show up for work again or would change her mind. The claimant made her intentions to quit clear when she told her employer she was done and not coming back and when she specifically told a coworker that she quit. The employer was not obligated to provide the claimant with training to work in the kitchen because she was hired to be a cashier. The claimant's leaving was without good cause attributable to the employer. Benefits are denied.

Iowa Code Section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The February 17, 2005, reference 02, decision is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as 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 claimant is overpaid benefits in the amount of \$1,472.00.

tkh/kjf