

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN T BELL
Claimant

APPEAL NO. 13A-UI-12980-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 08/25/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated November 19, 2013, reference 03, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on December 11, 2013. The claimant participated personally. The employer participated by Sherrie Flynn, Manager Walcott store. The record consists of the testimony of Brian Bell and the testimony of Sherrie Flynn.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked as a part-time cook at the employer's store located in Walcott, Iowa. The claimant was hired on September 7, 2012. His last day of work was August 26, 2013. The claimant was taken off work by a health care provider on August 25, 2013. The claimant was terminated on September 19, 2013. The reason he was terminated was he had a restriction against working with the public. The employer could not accommodate this restriction.

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The claimant is eligible for unemployment insurance benefits. Issues surrounding separations of employment for medical reasons and subsequent entitlement to unemployment insurance benefits are among the most challenging in unemployment insurance law. The evidence in this case showed that the claimant was unable to return to work due to mental health issues. The employer terminated the claimant on September 19, 2013, because he was given a restriction of not working with the public. The employer could not accommodate this restriction since its business requires contact with its customers. The representative concluded that the claimant quit his job but both the claimant and the employer agree that he was terminated. There is no evidence of misconduct. This is a non-disqualifying separation and the claimant is eligible for unemployment insurance benefits provided he is able and available for work.

DECISION:

The decision of the representative dated November 19, 2013, reference 03, is reversed. Unemployment insurance benefits are allowed, if the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css