

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIEZER RODRIGUEZ

Claimant

APPEAL NO. 10A-UI-04751-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

**Original Claim: 02/07/10
Claimant: Respondent (2)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Casey's Marketing Company filed an appeal from a representative's decision dated March 17, 2010, reference 03, which held that no disqualification would be imposed regarding Eliezer Rodriguez' separation from employment. After due notice was issued, a hearing was held by telephone on May 11, 2010. Mr. Rodriguez participated personally. The employer participated by Sandy Duncan, Manager. Isura Broste participated as the interpreter.

ISSUE:

At issue in this matter is whether Mr. Rodriguez 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: Mr. Rodriguez was employed by Casey's from December 2, 2008 until January 2, 2010. He worked approximately 20 hours each week making pizzas. He quit the employment for health reasons, but was not advised by a doctor to quit. He has problems with his blood pressure and had asked the employer not to schedule him three days in a row. The employer agreed to accommodate him but was not always able to do so, because it had only two pizza makers.

Mr. Rodriguez also quit because the prior shift did not always have prep work done for his shift and the kitchen was not always clean. He reported this to management and the manager spoke with the individuals responsible. Things would improve after management became involved. It appears that the decision to quit was prompted by a customer complaint on January 2. The customer called the store and yelled at Mr. Rodriguez because his pizza had been made incorrectly. Mr. Rodriguez notified his manager and was told that he had to remake the pizza if it was made incorrectly. The manager did not yell at him or use profanity in dealing with the matter. Mr. Rodriguez quit the same day. Continued work would have been available if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

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). Mr. Rodriguez cited health issues as the primary reason for his quit. The evidence failed to establish that the working conditions or work environment was such that remaining in the job posed a risk to his health and well-being. Moreover, he was not advised by a doctor to leave the employment. Under such circumstances, a separation is not for good cause attributable to the employer. See 871 IAC 24.25(36).

The employer made good-faith attempts not to schedule Mr. Rodriguez to work three consecutive days, but it was sometimes unavoidable. It does not appear that he worked three days in a row so frequently as to constitute a detrimental working condition. It is true that those working in the kitchen before Mr. Rodriguez' shift did not always clean the kitchen or prepare ingredients for his shift. However, the employer always took steps to address the situation whenever he raised it. It is unreasonable to expect coworkers to always perform to perfection. The problems caused by others were not so frequent as to establish intolerable working conditions.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Mr. Rodriguez voluntarily quit his part-time employment with Casey's without good cause attributable to the employer. He does not have sufficient other wage credits in the base period of his claim to establish a valid claim. As such, he is disqualified from receiving job insurance benefits. No overpayment results from this reversal of the prior allowance, as Mr. Rodriguez has not received benefits on the claim filed effective February 7, 2010.

DECISION:

The representative's decision dated March 17, 2010, reference 03, is hereby reversed. Mr. Rodriguez voluntarily quit his employment for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw