

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

CHRISTINA E GRAY
Claimant

APPEAL NO. 18A-UI-10853-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 09/30/18
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Casey's Marketing Company (employer) appealed a representative's October 23, 2018, decision (reference 01) that concluded Christina Gray (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 15, 2018. The claimant participated personally. The employer participated by Aren Mears, Store Manager, and Zontel McCann, Unemployment Insurance Consultant. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 27, 2015, as a part-time store employee. The claimant signed for receipt of the employer's handbook on February 27, 2015. The employer has a zero tolerance policy regarding harassment in the workplace.

The employer provided the claimant and co-workers with training in food safety. The claimant took food safety seriously because she was a biology major in school. She reminded her co-workers to wash their hands and take precautions in the kitchen. Once, she reported a co-worker to her supervisor for incorrect food preparation. Her co-workers resented her, called her a snitch, and began to treat her differently. On some shifts, co-workers would shun her and refuse to speak to her. Other times they would yell at her. The claimant complained to her three supervisors eleven times during her last month of work.

On one occasion, the claimant was taking a telephone order for pizza from a customer. A co-worker corrected the claimant loudly and repeatedly. The claimant asked the customer to repeat the order three times before she could hear the customer. The co-worker yelled at the claimant so loudly and for so long that the claimant became anxious and nauseous. She was crying and asked her supervisor if she could leave. She expressed thoughts of self-harm.

The store manager thought the claimant's complaints about her co-workers were too much. The store manager felt harassed by the claimant's complaining. She thought the claimant should stop trying to correct her co-workers, even though the store manager only heard the claimant do this once. The store manager met with the co-workers as a group to investigate the claimant's complaints. She did not meet with them individually because they would lie about what happened. The store manager did not keep any notes regarding the investigations.

On September 21, 2018, the claimant was working the cash register and had to use the restroom. She pushed the buzzer and asked for help. There were four co-workers in the store. One co-worker was working in the cooler, one was in the office, and two were working in the kitchen. The situation became urgent and no one came to relieve the claimant. One of the workers in the kitchen said, "No one's coming up there." After twenty minutes, the claimant went into the office and told the co-worker it was urgent.

At the end of her shift, the claimant told her assistant manager that she was quitting. She sent a text to the store manager on September 24, 2018, that she quit due to a hostile work environment. The store manager questioned the co-workers about the incident. They all had different stories.

The claimant filed for unemployment insurance benefits with an effective date of September 30, 2018. Zontel McCann, a representative from Equifax, participated in the October 22, 2018, fact-finding interview. Ms. McCann did not have firsthand knowledge of the events leading to the separation. The employer provided some documents for the fact finding interview. The employer did not provide the fact-finder with the name and number of a person with firsthand information about the separation.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L.*

Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of harassment by her co-workers. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided she meets all the qualifications.

DECISION:

The representative's October 23, 2018, decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs