

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORRI L BAIN
Claimant

APPEAL NO. 08A-UI-09544-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

**OC: 09/14/08 R: 03
Claimant: Appellant (2)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Lorri Bain, filed an appeal from a decision dated October 9, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 3, 2008. The claimant participated on her own behalf. The employer, Casey's, did not provide a telephone number where a witness could be contacted and did not participate. Exhibits A and B were admitted into the record.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Lorri Bain was employed by Casey's from April 7, 2008 until August 29, 2008 as a part-time cashier and pizza maker. She was hired by Manager Stephanie Kirkpatrick to work less than 20 hours per week, but during the entire course of her employment she never worked fewer than 37 hours per week. When she spoke with Ms. Kirkpatrick, or the new manager, Staci Rickelman, she was told her hours could not be the 20 or less as agreed, because too many people were quitting. Ms. Bain submitted a written resignation in early August 2008 stating she could not continue to work so many hours per week when the manager told her it "was not going to get any better."

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.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The claimant quit because the employer was unable or unwilling to comply with the contract of hire. Ms. Bain was hired to be part-time, but at no point during her employment did she work that few number of hours. When the employer notified her the situation was not going to improve, she resigned. Under the provisions of the above Administrative Code section, this is a voluntary quit with good cause attributable to the employer and the claimant is qualified for benefits.

DECISION:

The representative's decision of October 9, 2008, reference 01, is reversed. Lorri Bain is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw