

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BETHANY CARMAN**  
Claimant

**APPEAL 21A-UI-04776-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEYS MARKETING COMPANY**  
Employer

**OC: 12/13/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the February 2, 2021 (reference 01) unemployment insurance decision that held claimant ineligible for unemployment insurance benefits due to her voluntarily quitting. The parties were properly notified about the hearing. A telephone hearing was held on April 13, 2021. Claimant, Bethany Carman, participated personally. Employer, Casey's Marketing Company, did not participate. Claimant's Exhibits A and B were received into the record.

**ISSUE:**

Did claimant voluntarily quit her employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a store associate. She began working for this employer on February 26, 2020 and voluntarily quit on November 19, 2020. Vanessa Bodgicker was the claimant's immediate supervisor. The Casey's store was divided into store front and kitchen. Claimant was cross trained and able to work both in the kitchen and in the store front.

Claimant was diagnosed with a medical condition that affected her scalp. Due to her medical condition, claimant was unable to wear hair net or head covering over her scalp. Claimant's medical provider faxed a note to Casey's Marketing Company on October 19, 2020 excusing claimant from wearing a hat or hairnet. Claimant requested she be scheduled in the store front only and not in the kitchen because kitchen workers were required to wear a hat or head covering.

Claimant's employer continued to schedule claimant in the kitchen after receiving the note from claimant's doctor. Claimant was scheduled 3 out of 4 shifts in the kitchen from October 19, 2020 until she quit on November 19, 2020.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds that the claimant voluntarily quit with good cause attributable to the employer.

Iowa Code §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 voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). In this case, the claimant voluntarily quit her employment. As such, claimant must prove that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

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.

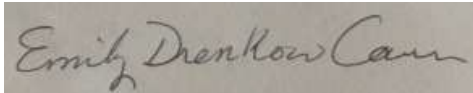
Generally, notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788

(Iowa 1956). Therefore, claimant was not required to give the employer any notice with regard to the intolerable or detrimental working conditions prior to her quitting. However, claimant must prove that her working conditions were intolerable, detrimental, or unsafe.

The employer did not participate in the hearing. Claimant testified credibly that she was continually assigned to a position where her choice was to wear a head covering against doctor's orders or violate the state health code. Considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds that claimant quit not rather than perform the assigned work as instructed, but because she was being asked to jeopardize her health or break the law. This is easily "good cause" for leaving employment which is reasonable to the average person. Claimant voluntarily quit with good cause attributable to the employer. As such, benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The February 2, 2021 (reference 01) unemployment insurance decision reversed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.



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Emily Drenkow Carr  
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April 20, 2021  
Decision Dated and Mailed

ed/kmj