

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**SARAH D COLEMAN**  
Claimant

**APPEAL NO. 19A-UI-00250-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 12/09/18**  
**Claimant: Respondent (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 31, 2018, reference 01, decision that held the claimant was eligible for benefits provided she met all other eligibility requirements and that the employer's account could be charged, based on the deputy's conclusion that the claimant voluntarily quit on December 14, 2018 with good cause attributable to the employer. After due notice was issued, a hearing was held on January 25, 2019. Claimant Sarah Coleman participated. Karen Fillingier represented the employer and presented additional testimony through Karen Colvin and Zontel McCann. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibit 1 into evidence. The administrative law judge took official notice of the fact-finding materials for the limited purpose of determining whether the employer participated in the fact-finding interview and, if not, whether the claimant engaged in fraud or intentional misrepresentation in connection with the fact-finding interview.

**ISSUES:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the claimant was overpaid benefits.

Whether the claimant is required to repay benefits.

Whether the employer's account may be charged.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Sara Coleman was employed by Casey's Marketing Company as a full-time Store Manager during two distinct periods that were separated by a decade. The most recent period of employment began on March 1, 2018 and ended on December 14, 2018, when Ms. Coleman voluntarily quit the employment. During this most recent employment, Ms. Coleman worked as Store Manager

for the employer's convenience store in Middleton, Iowa. Ms. Coleman was responsible for all aspects of store operations including ordering, bookkeeping, banking, and creating the work schedule for 10 to 15 subordinate employees. Ms. Coleman's salary was \$47,500.00 annually. Area Supervisor Karen Fillinger hired Ms. Coleman and was Ms. Coleman's immediate supervisor from the start of the employment until the end of July 2018 and then from the end of November 2018 to the December 14, 2018 quit date. Ms. Coleman accepted the employment with the understanding that she would be expected to work 45 hours per week. Ms. Coleman and Ms. Fillinger agreed on a core work schedule of 7:00 a.m. to 4:00 p.m., Monday through Friday. Ms. Coleman accepted the employment with the understanding that she would be required to cover otherwise uncovered shifts and that this could result in her working more than 45 hours per week as needed. Though Ms. Fillinger was the Area Supervisor over the Middleton store for most of Ms. Coleman's recent period of employment, Ms. Fillinger's assignment to that store was interrupted by a corporate reorganization at the end of July 2018 that resulted in Area Supervisor Karen Colvin being briefly assigned the Middleton store. A subsequent reorganization in November 2018 returned Ms. Fillinger to oversight of the Middleton store.

When Ms. Coleman began the most recent period of employment, the Middleton store was chronically understaffed with managers. Casey's staffing protocol called for the store to have a kitchen manager and a minimum of two assistant managers. The store remained without a kitchen manager throughout Ms. Coleman's employment. During Ms. Coleman's employment, the Middleton store had just one assistant manager, who started at the end of July 2018 and left for other employment in November 2018. Ms. Coleman was not allowed to hire a kitchen manager or assistant manager without involving the Area Supervisor. Area Supervisors Karen Fillinger and Karen Colvin both adhered to an assistant manager/kitchen manager hiring practice whereby Ms. Coleman was expected to recruit the management candidate, hire the candidate as a non-management employee, train the newly hired non-management employee, and then recommend the non-management employee for promotion to assistant manager/kitchen manager. This practice created an obstacle to hiring managers for the Middleton store and was the primary reason the Middleton store was chronically understaffed with managers.

During Ms. Coleman's most recent employment, the Middleton Store was often understaffed with non-management employees. Toward the end of the employment, Ms. Coleman hired a new full-time day-shift employee and was in the process of hiring a part-time evening-shift employee. Toward the end of the employment, Ms. Fillinger rejected Ms. Coleman's proposal to rehire a former employee based on Ms. Fillinger's position that the former employee had been too bothersome during the prior employment. With the exception of the rejected rehire, Ms. Coleman had been allowed to interview and hire non-management employees with minimal involvement of the Area Supervisor until Ms. Fillinger visited the store on December 12, 2018.

In November 2018, Ms. Coleman found herself having to work 60 to 70 hours per week on a regular basis due to the departure of the assistant manager, the departure of another employee for maternity leave, and the other staffing issues. Ms. Coleman sought assistance from neighboring Casey's stores, but received no assistance from those stores.

The employment relationship took a further turn for the worse when Ms. Fillinger went to the Middleton store on December 12, 2018 to complete a store "report card." In November, Casey's implemented the store report card system. Under the scoring system, the store's score could be downgraded if the store lacked the requisite number of managers. In November, Ms. Coleman's store had barely missed a passing score. This prompted another review of the store two weeks later. Ms. Fillinger's trip to the Middleton store on December 12 represented

the third time the Middleton store was subjected to the scoring in a four-week period. During that visit, Ms. Fillinger told Ms. Coleman that ongoing failing scores could lead to discharge from the employment. Ms. Fillinger provided Ms. Coleman a barely passing score as part of the December 12 visit. During the December 12 visit, Ms. Fillinger told Ms. Coleman that Ms. Fillinger would thereafter be more involved in hiring new non-management employees because she questioned Ms. Coleman's judgment. During the store visit, Ms. Fillinger told Ms. Coleman that Ms. Coleman was hurting store morale by not displaying a bubbly, positive demeanor. Ms. Coleman's usual positive demeanor had been diminished by the long work hours and her perception that she was under attack. During the store visit, Ms. Coleman told Ms. Fillinger that she had been unable to seek medical evaluation of an illness due to the need to work long hours at the Middleton store. During the December 12 visit, Ms. Fillinger told Ms. Coleman that she had not been trained properly and would be retrained. Ms. Fillinger had been busy with another, more dysfunctional store at the start of Ms. Coleman's employment and had decided at that time that Ms. Coleman's previous tenure as a store manager provided sufficient background to perform the store manager duties at the Middleton store. During the December 12 store visit, Ms. Fillinger was concerned when she learned that Ms. Coleman was using a cordless mouse to operate the store computer. Ms. Coleman was unaware that Casey's policy prohibited use of cordless mice. In connection with the discussion regarding the cordless mouse, Ms. Fillinger accused Ms. Coleman of not being truthful regarding who had installed the cordless mouse.

After the December 12 store visit, Ms. Coleman decided she could not continue in the employment. On December 14, 2018, Ms. Coleman submitted the following written resignation to Ms. Fillinger:

I am quitting as of today my keys will be in the safe and I have completed the books and the order for today. I have been thinking a lot about our last conversation and decided I cannot continue working here. I don't like being made out to be a liar and I deserve more respect than that. I wish the store well but for my health I cannot continue. Thank you for the opportunity.

I wish you well,

Ms. Coleman's decision to leave the employment was not based on advice from a licensed and practicing physician.

#### **REASONING AND CONCLUSIONS OF LAW:**

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.

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.

Iowa Admin. Code r. 871-24.26(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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. *Id.* An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See *Olson v. Employment Appeal Board*, 460 N.W.2d 865 (Iowa Ct. App. 1990).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Administrative Code rule 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

The weight of the evidence in the record establishes a voluntary quit with good cause attributable to the employer based on intolerable and detrimental working conditions and a substantial change in the contract of hire. When Ms. Coleman accepted the employment, she did not agree to work 60 to 70 hours per week on a continuous basis, as occurred beginning in November 2018. This substantial and sustained increase in the number of work hours was a substantial change in the conditions of the employment. Ms. Fillinger's December 12 announcement that she would be more involved in screening non-management applicants constituted an additional change in the conditions of the employment. The weight of the evidence establishes ongoing employer practices and behavior specific to the December 12 store visit that rose to the level of intolerable and detrimental working conditions. The Area Supervisors' practice of not hiring managers directly as managers presented a substantial hurdle to fully staffing the Middleton store and unreasonably left Ms. Coleman to perform a four-manager job by herself for most of the employment. The weight of the evidence establishes that Ms. Fillinger created further intolerable and detrimental working conditions by repaying Ms. Coleman's hard work on behalf of Casey's with demeaning comments and accusations during the December 12 visit. A reasonable person would have left the employment under the circumstances. Ms. Coleman is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

**DECISION:**

The December 31, 2018, reference 01, decision is affirmed. The claimant voluntarily quit the employment on December 14, 2018 with good cause attributable to the employer. The claimant is eligible for benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs