

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHELIA M ZITTRITSCH

Claimant

APPEAL NO. 10A-UI-11284-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

CASEY'S GENERAL STORES

Employer

OC: 04/25/10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Shelia M. Zittritsch (claimant) appealed a representative's August 3, 2010 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Casey's Marketing Company/Casey's General Stores (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 28, 2010. The claimant participated in the hearing. Toni Frederickson appeared on the employer's behalf. During the hearing, Claimant's Exhibits A, B, and C were entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on January 6, 2010. Since on or about February 11, 2010, she worked part-time (27 hours per week) as a morning cashier/cook in the employer's Gilmore City, Iowa store. Her last day of work was June 18, 2010. On June 7 she tendered her verbal resignation, with an intended last date of June 18; the employer accepted her resignation. Her reason for quitting was that she could no longer work under the conditions she was experiencing regarding the cleaning of the kitchen.

There was a particular employee who had been hired into a night shift kitchen position after February 11 who was frequently leaving the kitchen cleaning incomplete so that when the claimant came in for her morning shift, she would have to complete the cleaning before she could begin her food preparation. The claimant raised concerns about this to the general manager, Ms. Frederickson, on several occasions, beginning in about mid-March 2010; Ms. Frederickson acknowledged that there were some issues due to the employee still being a trainee, but indicated that the claimant should be a team player and do what she needed to do to take care of the kitchen's cleanliness.

The claimant was particularly upset when she came in on the morning of June 7, as the kitchen's condition was worse than usual, causing her additional pre-cooking work. The trainee had worked the prior evening, but had that evening suffered a personal loss due to the miscarriage of his child. The claimant concluded that the situation was not going to improve in the foreseeable future and that Ms. Frederickson was not going to take effective action to address the problem, and so she submitted her resignation.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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 from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or an inability to work with a coworker or supervisor is not good cause. 871 IAC 24.25(6), (21), (22). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's August 3, 2010 decision (reference 04) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of June 18, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw