

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDY REDDING

Claimant

APPEAL NO: 09A-UI-08388-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 05/03/09

Claimant: Respondent (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Casey's Marketing Company (employer) appealed an unemployment insurance decision dated June 4, 2009, reference 01, which held that Sandy Redding (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 29, 2009. The claimant participated in the hearing. The employer participated through Belinda Bye, Manager. 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:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

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 employed as a full-time baker/cashier from December 12, 2006 through May 5, 2009. Approximately two months prior to her separation, the claimant reported two employees were talking about a drug transaction at the counter in front of a customer and the claimant's sister. Mikki Smith was on register two and Marvin was on register one and Marvin reported he had gotten high and "got dope" from Robert, a third employee who was not working.

The claimant overheard the comments and reported the matter to Manager Belinda Bye who then involved her in handling the matter by requesting the claimant use her cell phone to call the store. Ms. Bye answered the phone in front of the other employees and pretended the call was from a disgruntled customer who overheard the drug talk. Ms. Bye then questioned the employees and Mikki denied it all even though she knew the claimant, the claimant's sister and a customer all heard it. Marvin finally admitted it and he and Robert were discharged. That was the end of it as far as the claimant knew.

Subsequently, Mikki called the claimant at home on April 28, 2009 at 2:20 p.m. and asked her about dope. She has never called the claimant at home while Mikki frequently talked about her drug issues at work. Mikki said that she had not had "dope" for two days, that her drug supplier had dried up, and asked the claimant if she knew where Mikki could get dope. Mikki hung up and called right back again. The claimant's sister apparently "smokes dope" and Mikki asked the claimant if she could talk to her sister and the claimant told her no. The claimant told Mikki she was not going to mention it to her sister and said not to call her again.

The claimant reported the incident to Ms. Bye on approximately April 29, 2009. The claimant reported to work on May 4, 2009 at 3:00 a.m. and while helping to unload the truck, no one else talked to her. She just ignored it but it happened on the next morning also. Mikki and Assistant Manager Chris reported to work at approximately 5:45 a.m. The claimant said hi to Mikki and Mikki ignored her. When the claimant asked Mikki what was wrong, Mikki started yelling at her and said, "You know what the fuck is wrong, you fucking bitch. You know what happened and you can believe me, I'm never talking to you again." This was done in front of the assistant manager but the assistant manager said nothing. The claimant was upset and did not know what to do since she needed to get a hold of Ms. Bye. At approximately 6:45 a.m., the claimant saw Mikki and Chris talking and laughing at the counter. The claimant used her cell phone to call Ms. Bye but she did not answer. Ms. Bye reported to work around 7:00 a.m. and the claimant went into her office at 7:20 a.m. She asked Ms. Bye what was going on and Ms. Bye said she did not know. Eventually Ms. Bye admitted that she told Mikki what the claimant had told her. The claimant was shocked and walked out since she could not work in a hostile work environment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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.

871 IAC 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 claimant voluntarily quit due to detrimental and intolerable working conditions. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 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 (Iowa 2005).

The claimant voluntarily quit after she learned that the store manager had betrayed her by telling a co-employee what the claimant had said about her. The co-employee uses drugs and had recently called the claimant at home to ask if the claimant knew where the co-employee could get drugs. The manager denied telling the co-employee anything but the claimant's testimony was more credible. Any reasonable person would have quit under like circumstances. The manager's conduct was egregious and her actions could have endangered the claimant.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated June 4, 2009, reference 01, is affirmed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css