

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAMELA L SEUFFERLEIN**  
Claimant

**APPEAL NO: 11A-UI-16304-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 11/20/11**

**Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Casey's Marketing Company (employer) appealed a representative's December 14, 2011 decision (reference 01) that concluded Pamela L. Seufferlein (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 24, 2012. The claimant participated in the hearing. Teresa Zuke appeared on the employer's behalf. 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?

**OUTCOME:**

Reversed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on August 6, 2010. Since about August 14, 2011, she worked full time as second assistant manager at the employer's Evansdale, Iowa store. Her last day of work was November 20, 2011. She voluntarily quit as of that date.

Before August 14, the area supervisor, Zuke, had approached the claimant and advised her that a promotion to the second assistant manager position was available for her if she was willing to transfer to the Evansdale store. She warned the claimant that it could be difficult, as the store manager at the Evansdale store was a problem and hard to work with. However, the claimant accepted the position. She did her initial training at the store at which she had already been working, but physically transferred to the Evansdale store about the last week of August. She did not experience any particular problems until about the middle of September.

After about mid-September, the store manager began to outright tell the claimant that she “had no place there,” and that she had no authority to make decisions in the store. When the claimant would ask for direction in some area, the store manager would turn and walk away. A clerk in the store who was friendly with the store manager also began to display a negative attitude in working with the claimant. The claimant reported these concerns to Zuke. A meeting between the four of them occurred on or about October 13, after which Zuke acknowledged that there clearly was a problem, and that she would get back to them on what she would do. A few days later, she spoke privately to the clerk and instructed him that he would work with and get along with the claimant; she then advised the claimant that she had so instructed the clerk. Thereafter, the claimant did not have further problems with the clerk.

The problems with the store manager ignoring the claimant continued. The claimant expected that Zuke was going to further address that issue, but she did not follow up with Zuke to learn what if anything was going to be done. On November 18 the store manager instructed the first assistant manager to give the claimant a write-up for tasks the claimant had not completed; however, these were tasks for which the claimant was not responsible, and the presentation of the write-up by the first assistant manager rather than the store manager was a breach of the employer’s disciplinary protocol. As a result, the claimant determined to protest the write-up, and contacted Zuke to obtain a conflict form to make her complaint about the write-up. Zuke dropped off the form to the claimant on November 18, but as the claimant was busy, no conversation occurred at that time.

On November 20 the claimant was working a 5:00 a.m. to 10:00 a.m. shift. She had worked through her book work, and had left a voice mail regarding the book work for Zuke at about 7:30 a.m., at which point she was fine. However, as the morning went on, while nothing else occurred, the claimant began to become more upset about the situation with the store manager, particularly the issuance of the unmerited and improperly delivered write-up. While she did not follow up with Zuke to inquire as to whether there was any change that could be expected, she decided that nothing was going to change, and so decided to quit, so she put her keys into the safe and left at about 9:30 a.m.

Zuke learned of the claimant’s departure shortly thereafter from the clerk who was working in the store that morning. The claimant did not seek to contact Zuke until several days later. Zuke had been working on pursuing various avenues of investigation to gather sufficient information to discharge the store manager, and was able to do so on November 23. The claimant sent a message to Zuke on November 28 asking if she could have her job back, but when Zuke conferred with her higher managers, she was advised that since the claimant had quit by walking out as she had, she could not be brought back.

The claimant established a claim for unemployment insurance benefits effective November 20, 2011. The claimant has received unemployment insurance benefits after the separation.

#### **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. 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 a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not provided sufficient evidence to conclude that a reasonable person, particularly one who had been warned in advance that the position working with the store manager would be difficult and who experienced those forewarned difficulties for only two months, 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.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of determining the amount of the overpayment and whether the claimant is eligible for a waiver of overpayment under Iowa Code § 96.3-7-b is remanded the Claims Section.

#### **DECISION:**

The representative's December 14, 2011 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of November 20, 2011, 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. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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