

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WAYNE M SHIMER
Claimant

APPEAL NO. 13A-UI-12393-M

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 09/29/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 31, 2013, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 25, 2013. Claimant participated with Maggie White, Attorney at Law. Employer participated by Jacki Peel, Store Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 22, 2013. Claimant gave a two-week notice to quit for new and better employment. Claimant had a new job lined up to start on October 1, 2013. Employer accepted the resignation. Claimant told employer his last day of work was scheduled as September 30, 2013. Claimant missed a couple of sick days. Employer was upset with claimant's absenteeism. Employer let claimant go early on September 22. The new job fell through before claimant could start.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of new and better employment. While this is not a quit for good cause it is nevertheless not disqualifying. Claimant left for a new job which fell through before he could start. Claimant had a valid offer of employment that did not pan out. Quitting for new and better work qualifies claimant for benefits.

Employer's account shall not be charged.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

DECISION:

The decision of the representative dated October 31, 2013, reference 02, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Employer's account shall not be charged.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs