

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

LISA A THOLE  
9375 HAXBYLANE RD  
LA MOTTE IA 52054

CASEY'S MARKETING COMPANY  
CASEY'S GENERAL STORE  
C/O TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-08567-DT  
OC: 07/04/04 R: 04  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Lisa A. Thole (claimant) appealed a representative's August 3, 2004 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Casey's Marketing Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 30, 2004. The claimant participated in the hearing. Mary Hanrahan 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:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 29, 2004. She worked part-time (approximately 25-30 hours per week) as a cashier in the employer's Dubuque, Iowa store. Her last day of work was June 9, 2004. The claimant was on vacation after that date through June 27, 2004. After her scheduled return from vacation date, the claimant was at least scheduled to work on July 4 and perhaps on July 1. The claimant did not have a babysitter for July 4, and was not aware of being scheduled to work on July 1. She spoke to a coworker on or about June 27 who told her that she was only on the schedule for July 4 and that the employer had hired a new cashier. The claimant did not report back for work and did not make direct contact with the store manager to see about getting back on the schedule or to ask if she had been replaced. The person hired while the claimant was on vacation was not hired to replace her. When the claimant failed to report back for work after her return for vacation, the store manager assumed she had quit and did not schedule her further.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

Iowa Code Section 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.

Where an individual mistakenly believes that she or he is discharged and discontinues reporting to work, but was never told she or he was discharged, the separation is considered a voluntary quit without good cause attributable to the employer.

Inasmuch as the employer had not told the claimant she was fired and the claimant ceased her contact with the employer prior to formally determining the status of her employment relationship with the employer, she acted in a manner such that the employer would reasonably believe she had resigned her position. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify the claimant. Iowa Code Section 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The representative's August 3, 2004 decision (reference 02) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of July 4, 2004, 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.

ld/kjf