

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERRY L SHEA
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL 15A-UI-08495-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/05/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 20, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination she voluntarily quit her employment due to a non-employment related injury which is not a good cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on August 20, 2015. Claimant Terry Shea participated on her own behalf. Employer Casey's Marketing Company participated through Area Supervisor Deb Bontje and Assistant Manager Rose Fitzgerald. Claimant's Exhibits A through D were received.

ISSUE:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a store employee and donut maker beginning April 3, 2006, and was separated from employment on July 2, 2015, when she quit. The claimant most recently reported directly to Assistant Store Manager Rose Fitzgerald in the absence of her store manager who on approved leave.

In May 2015, the claimant injured her foot while at work. It was later diagnosed as a broken foot. She left a note for Fitzgerald on the desk and went to sit in the back room. Fitzgerald did not know where the claimant was and went about her standard morning routine. The claimant went looking for Fitzgerald and found her counting cigarettes. When the claimant reported she needed to go home, Fitzgerald called the other assistant store manager to come in early. The claimant left within an hour.

The claimant then filed her first written complaint about the work environment. (Claimant's Exhibit A). The claimant indicated there had been a personality conflict between herself and the assistant managers. They had been ignoring her since November 2014. The claimant also felt

neither of them reacted appropriately with regard to her foot as Fitzgerald did not check on her immediately and neither of the managers asked how she was doing before she left work that day.

Area Supervisor Deb Bontje met with the claimant about her complaints. She spoke to the claimant about keeping a positive attitude and trying to get everyone to work together. She also spoke with the other staff as a group about maintaining a positive work environment.

On June 17, 2015, the claimant left another complaint for Fitzgerald and Bontje. (Claimant's Exhibit B). The claimant had injured her knee and called in sick for three days out of a work week. When she returned there was a note in back stating if she was going to be sick she was to contact Bontje directly instead of Fitzgerald. Bontje made this decision to hopefully reduce some of the friction between the employees. The claimant also learned her vacation request was not approved when other employees' vacation requests had been approved. The claimant was regularly scheduled to work every other weekend, rotating with the other donut maker. The claimant had requested to take vacation time for the rest of the year on every weekend she was normally scheduled to work, which would have given her every weekend off. Prior to the every other weekend arrangement, the claimant had been working every weekend. Fitzgerald notified Bontje that the claimant had left the complaint in the office; however, Bontje did not return to the store until after July 2, 2015.

At the end of June, the claimant visited her doctor. She was very upset about the stress in her work environment. The doctor placed the claimant on anti-depressants and other medication to help with what she was feeling. The claimant chose to leave her employment to reduce her stress level and because she felt nothing was being done to correct or change the work environment. She resigned her employment on July 2, 2015. (Claimant's Exhibit C).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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.

Iowa Admin. Code r. 871-24.25(6) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(6) The claimant left as a result of an inability to work with other employees.

Iowa Admin. Code r. 871-24.25(18), (21) and (22) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code §96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(18) The claimant left because of a dislike of the shift worked.

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

Iowa Admin. Code r. 871-24.26(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 has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The claimant has argued she quit due to intolerable or detrimental working conditions. She felt the managers were ignoring her and did not show the appropriate level of concern when she was injured. She also felt she was being treated unfairly when she did not get her vacation request approved when others were allowed to take one to two weeks off work. However, the claimant's vacation request would have had her scheduled off work every weekend in a retail establishment over many months. This is not the same as a standard vacation request for one to two weeks off at a time. While the claimant may have felt stressed by these situations, the reasonable average person would not experience the same or similar amount of stress in the same situation. Additionally, the circumstances described by the claimant in her testimony and her exhibits do not rise to the level of intolerable or detrimental working conditions. While the claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The July 20, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/pjs