

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RITA A CARR**  
Claimant

**APPEAL NO. 13A-UI-05141-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 04/07/13**  
**Claimant: Respondent (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Casey's Marketing Company (employer) appealed a representative's April 26, 2013 decision (reference 01) that concluded Rita Carr (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 16, 2013. The claimant participated personally. The employer participated by Dorene Feick, Area Supervisor, and Terri Schutz, Manager.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

**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 hired on September 13, 2012, as a part-time pizza delivery person. The handbook indicates that a driver is paid for redelivery of a pizza when the employer makes a mistake in making the pizza. On April 7, 2013, the claimant was not paid for delivery of three pizzas. The manager told the claimant she would not be paid because the employer made the mistakes and the manager did not care what the handbook said about paying the driver.

On April 10, 2013, the claimant asked to be paid her wages from April 7, 2013. The area supervisor and the manager decided to follow the handbook and pay the claimant for delivery of the three pizzas on April 7, 2013. The claimant walked off the job on April 10, 2013, after receiving payment. Continued work was available had the claimant not resigned.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit with 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.

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's intention to voluntarily leave work was evidenced by her actions. She walked off the job and quit work. In the absence of agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 140 Nebraska 889, 2 N.W.2d 332 (1942).

When an employee quits work because the employer did not pay wages when they were due without an agreement to the contrary, her leaving is with good cause attributable to the employer. The claimant left work because she was not paid her wages when they were due and there was no agreement to the contrary. Her leaving was with good cause attributable to the employer. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's April 26, 2013 decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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