

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

APRIL J STEARNS-DEPRIEST
Claimant

APPEAL NO. 11A-UI-11446-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 07/17/11
Claimant: Appellant (4-R)

Section 96.5(1) – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-Time Employment

STATEMENT OF THE CASE:

April Stearns-Depriest filed a timely appeal from the August 31, 2011, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on September 21, 2011. Ms. Stearns was initially available for the hearing, but then did not make herself available to continue the hearing after a brief break and did not testify. Jennifer Arthur, store manager, represented the employer. Exhibits One through Five were received into evidence.

ISSUE:

Whether Ms. Stearns-Depriest's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: April Stearns-Depriest was employed by Casey's as a part-time clerk from October 2010 until she voluntarily quit on July 27, 2011 due to a personality conflict with a supervisor. Ms. Stearns-Depriest was late for her shift on July 27. When she arrived late, the assistant manager told her she was in violation of the employer's attendance policy. Ms. Stearns-Depriest told the assistant manager that she did not like his attitude. Ms. Stearns-Depriest then started to leave. The assistant manager told Ms. Stearns-Depriest that if she left, he would deem that a voluntary quit. Ms. Stearns-Depriest left anyway. The next day, Ms. Stearns-Depriest contacted the store manager to ask whether she still had a job. The employer advised her that by walking off the job the previous day, she had quit the employment.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

When a worker voluntarily quits employment in response to a reprimand the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(28).

When a worker voluntarily quits due to a personality conflict with a supervisor, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21).

The weight of the evidence in the record establishes that Ms. Stearns-Depriest voluntarily quit the employment on July 27, 2011, when she walked off the job. Ms. Stearns-Depriest left despite notice from the employer that her unauthorized departure would be interpreted as a quit. Ms. Stearns-Depriest voluntarily quit in response to a reprimand and because she did not care for the assistant manager. Ms. Stearns-Depriest voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Stearns-Depriest is disqualified for benefits based on wages from this employment until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Stearns-Depriest.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits, may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

Though Ms. Stearns-Depriest is disqualified for benefits based on the wages she earned from Casey's, she remains otherwise eligible for reduced benefits based on other base period employment, provided she meets all other eligibility requirements. This matter will be remanded to the Claims Division for redetermination of Ms. Stearns-Depriest's eligibility for reduced benefits based on employment other than Casey's.

DECISION:

The Agency representative's August 31, 2011, reference 03, decision is modified as follows. The claimant voluntarily quit the employment without good cause attributable to the employer. Accordingly, the claimant is disqualified for benefits based on wages from this employment until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits. The claimant remains otherwise eligible for reduced benefits based on other base period employment, provided she meets all other eligibility requirements. This matter will be remanded to the Claims Division for redetermination of the claimant's eligibility for reduced benefits based on employment other than Casey's.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw