

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KRISTIN RANEY**  
Claimant

**APPEAL NO: 10A-EUCU-00610-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 10-05-08**  
**Claimant: Respondent (2-R)**

Iowa Code section 96.5-1 – Voluntary Quit  
Iowa Code section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from a representative's decision dated July 8, 2010, reference 03, which found the claimant was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 1, 2010. The claimant participated in the hearing. Shawn Retman, Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment with 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 employed as a part-time cashier for Casey's from February 5, 2010 to April 21, 2010, when she walked off the job. She reported to work that day out of uniform and the employer sent her home to get it. The claimant returned and then waited on a few customers before the employer noticed the claimant appeared to be upset and asked her if there was something wrong. The claimant started crying and said she was on her period. The employer told the claimant to go compose herself so the claimant went to the back for a while. The employer was waiting on a customer so did not go to the back with the claimant. The claimant came out from the back and stood at the front counter. The employer asked if she was going to be okay and the claimant then clocked out, put down her key and walked out the door. The claimant was crying and did not say a word. The employer was helping another customer so again could not go after her. The claimant was scheduled to work the following day but was a no-call/no-show. The employer determined she voluntarily quit her job effective April 23, 2010.

The claimant has claimed and received unemployment insurance benefits since her separation from this employer.

**REASONING AND CONCLUSIONS OF LAW:**

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out when she walked off the job April 21, 2010, and failed to return. Whatever she was upset about that day was personal in nature and not work related. The claimant has not met her burden of proving her leaving was for a good cause reason attributable to the employer. Therefore, benefits are denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code section 96.3-7. In this case, the claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

**DECISION:**

The unemployment insurance decision dated July 8, 2010, reference 03, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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