

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOLYNN ZIMPLE
Claimant

APPEAL NO: 07A-UI-10615-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

**OC: 07/22/07 R: 03
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving
Section 96.7-2-a(2) – Charges Against Employer's Account

STATEMENT OF THE CASE:

Casey's Marketing Company (employer) appealed a representative's November 7, 2007 decision (reference 03) that concluded JoLynn Zimple (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 3, 2007. The claimant participated in the hearing. Teresa Zuke appeared on the employer's behalf. During the hearing, Claimant's Exhibit A was entered into evidence. 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.

ISSUES:

Did the claimant voluntarily quit for a good cause attributable to the employer? Is the employer's account subject to charge?

FINDINGS OF FACT:

The claimant started working for the employer on August 20, 2007. She worked full time as store manager of one of the employer's Waterloo, Iowa stores. Her last day of work was September 20, 2007. She voluntarily quit on that date.

Fairly quickly after starting her employment, the claimant began having difficulties with her interactions with her area supervisor, Ms. Zuke. Ms. Zuke would use vulgar and derogatory language to and around the claimant, making comments such as "I should fire every f - - - ing person here, you're all worthless," and calling the claimant or other employees "stupid." The claimant put a call into the district manager on about September 17 and left a message asking to discuss some of the problems, but the district manager did not return the call to the claimant.

The evening of September 19 an employee had been absent, and when the assistant manager attempted to contact the claimant by phone he had been unsuccessful, and so had contacted Ms. Zuke. On September 20 the claimant was at work before 5:00 a.m. when Ms. Zuke came into the store and reprimanded her in front of customers for not being reachable. She then

tossed the store employee work schedule toward the claimant; the claimant jerked back, so the schedule landed on the counter. She then told the claimant to “fix this f - - -ing thing” and left. The customers who were waiting in the store were taken aback and expressed their displeasure at Ms. Zuke’s behavior.

The claimant completed her work that day, but at the end of her normal workday decided to leave the store keys behind. She called and left another message for the district manager informing her that she had quit and summarized her reasons, but again the district manager did not return the call. She then called and left a message at the employer’s corporate customer service number, sent an email to the customer service department on September 21, and also sent a letter to an officer on September 21; there was no response to any of these contacts.

The claimant established an unemployment insurance benefit year effective July 22, 2007. She filed an additional claim effective September 23, 2007.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

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.

871 IAC 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 demonstrated that a reasonable person would find the employer’s work environment detrimental or intolerable. O'Brien v. EAB, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Benefits are allowed.

The final issue is whether the employer’s account is subject to charge. An employer’s account is only chargeable if the employer is a base period employer. Iowa Code § 96.7. The base period is “the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual’s benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which the individual filed a valid claim.” Iowa Code § 96.19-3. The claimant’s base period began April 1, 2006 and ended March 31, 2007. The employer did not employ the claimant during this time, and therefore the employer is not currently a base period employer and its account is not currently chargeable for benefits paid to the claimant.

DECISION:

The representative's November 7, 2007 decision (reference 03) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible. The employer's account is not subject to charge in the current benefit year.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs