

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TIMOTHY C WILSON**  
Claimant

**APPEAL NO: 11A-UI-13239-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 09/04/11**

**Claimant: Respondent (4)**

Section 96.5-1 – Voluntary Leaving  
871 IAC 24.27 – Voluntary Quit of Part-time Job

**STATEMENT OF THE CASE:**

Casey's Marketing Company (employer) appealed a representative's September 30, 2011 decision (reference 01) that concluded Timothy C. Wilson (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 October 31, 2011. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Clarissa Melka appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit and if so does the quit disqualify the claimant?

**FINDINGS OF FACT:**

The claimant started working for the employer on July 22, 2011. He worked part time (15 hours per week) as a pizza maker at the employer's Independence, Iowa store. He usually worked a 4:00 p.m. to 11:00 p.m. shift twice per week. His last day of work was August 27, 2011.

On August 27 the claimant called the manager, Melka, at about 5:00 p.m. to say he was not feeling well. She told him to call around and try to find someone to fill in for him. It is unknown whether he did so or not. At about 6:00 p.m. the claimant left the store without a replacement coming to relieve him, without saying anything to the clerks on duty, and without recontacting Melka to report as to what he had done to try to find a replacement or to indicate that he was going to go ahead and leave.

On August 28 the claimant called Melka to see if he was still scheduled to work again. She advised him that since he had walked off his shift without notice or permission that the employer considered him to have voluntarily quit.

The claimant established an unemployment insurance benefit year effective September 4, 2011.

#### **REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit his employment, generally he would not be eligible for unemployment insurance benefits unless it was for a good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The intent to quit can be inferred in certain circumstances. For example, leaving work rather than performing duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied his burden. The claimant voluntarily quit employment without good cause attributable to the employer.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The job, however, was part time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. The employer's account will not be subject to charge for benefits paid to the claimant.

**DECISION:**

The representative's September 30, 2011 decision (reference 01) is modified in favor of the employer. The claimant voluntarily left his employment without good cause attributable to the employer. However, the claimant is not disqualified and the employer's account is not subject to charge because the claimant voluntarily quit part-time employment without good cause attributable to the employer.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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