

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARYBETH PAYNE Claimant CAVEMAN ADVENTURES UN LTD Employer	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO. 19A-UI-04228-S1-T</div> <div>ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 04/29/18 Claimant: Appellant (1)</div>
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Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Marybeth Payne (claimant) appealed a representative's May 15, 2019, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Caveman Adventures (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 19, 2019. The claimant participated personally. The employer participated by Raymond Novick, President/General Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 October 1, 2018, as a full-time administrative assistant. The owner gave the claimant clear instructions about sending e-mail messages to customers regarding billing. One customer had never been sent a bill. Without the employer's permission, the claimant sent the customer a bill with a past due amount indicated. The customer was upset. The owner told the claimant her actions were unacceptable and could cause customers to leave the business. She was told not to send out any e-mails without prior approval of the owner.

The claimant prepared draft e-mails and sent them out to customers without approval of the owner. The employer received complaints. The owner gave the claimant another verbal warning telling her that she had to follow specific instructions if she wanted to continue her employment.

On December 20, 2018, the owner told the claimant to mail ten packages at the United States Postal Service. He told the claimant to mail one package first class and the others in the most cost efficient manner. The claimant returned saying she sent them all by standard mail. The owner told her she had to follow instructions if she wanted to remain working for the employer.

On December 21, 2018, the owner and the claimant met for a performance review. The owner told the claimant she had a problem following his instructions and something different needed to

be done for her to continue employment. The owner told her to think of ideas about how to fix the communication problem.

The claimant was not scheduled to work from December 22 through 25, 2018, because the employer was closed. The claimant arrived at work on December 26, 2018, a few minutes early. At that time she realized she was too ill to work and reported she would be leaving. She did not appear for work on December 27 or 28, 2018, because she was ill. The claimant remembers reporting her absence in some manner but the employer did not receive notice of her absence.

On December 29, 2018, the claimant appeared for work again. The owner met with the claimant to discuss concerns and whether the job was the right fit for the claimant. The claimant expressed her desire to sign a voluntary resignation form. Continued work was available for the claimant had she not separated from employment.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant did voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 words and actions. She told the employer she was leaving and quit work. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's May 15, 2019, decision (reference 03) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs