

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENDRA J CARTER-SANDY
Claimant

APPEAL NO. 10A-UI-15973-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 10/10/10
Claimant: Appellant (5)

Section 96.5-2-a – Discharge
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Kendra J. Carter-Sandy filed a timely appeal from an unemployment insurance decision dated November 10, 2010, reference 01, that disqualified her for benefits upon a finding that she had voluntarily left employment on October 5, 2010 without good cause attributable to the employer. After due notice was issued, a hearing was held in Des Moines, Iowa January 4, 2011 with Ms. Carter-Sandy participating. Manager Suzette Talbott and Assistant Manager Gina Paine participated for the employer, Casey's Marketing Company. Claimant's Exhibits A and B and Employer's Exhibit One were admitted into evidence.

ISSUES:

Was the separation a quit or a discharge?
Was the separation a disqualifying event?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Kendra Carter-Sandy was employed by Casey's Marketing Company from October 2007 until October 11, 2010. She last worked on October 5, 2010. She was a full-time employee who worked in the bakery and as a cashier.

Ms. Carter-Sandy was scheduled to work on October 7, 2010. She called the store on her way to work on that day saying that her boyfriend had kicked her out of the car and that she was walking the remaining mile to work. She did not report to work and there was no further contact from her that day. She was also scheduled to work on October 8 and 9. She was absent without contact.

She called Manager Suzette Talbott on Sunday, October 10, 2010 to see if she still had a job. Ms. Talbott said to bring documentation of the reason that she had been absent without contact. The shelter at which Ms. Carter-Sandy was staying did not wish to provide documentation. Ms. Carter-Sandy chose not to provide documentation from the physician who had been treating

her at that time. The employment ended when Ms. Carter-Sandy did not provide documentation on or after October 11, 2010.

REASONING AND CONCLUSIONS OF LAW:

The first step in analyzing this evidence is to characterize the separation. Although it has characteristics of both a quit and a discharge it more clearly resembles the latter. Ms. Carter-Sandy's employment ended because of undocumented, unexcused absences.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Excessive unexcused absenteeism is one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Absence due to personal illness and other potentially excusable reasons is not held against an employee for unemployment insurance purposes provided the employee properly reports the absence to the employer. See 871 IAC 24.32(7).

The evidence establishes that Ms. Carter-Sandy did not advise the employer in advance of her absences on October 7, 8 and 9 and that she declined the employer's offer to reconsider the matter with documentation of her whereabouts during the days in question. Given these factors, the administrative law judge concludes that the separation was a disqualifying discharge due to excessive unexcused absenteeism.

DECISION:

The unemployment insurance decision dated November 10, 2010, reference 01, is modified to indicate that the separation was a discharge occurring on October 11, 2010. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs