

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TARA J MORGAN
Claimant

APPEAL NO: 17A-UI-10046-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY
Employer

OC: 09/10/17
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 25, 2017, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on October 17, 2017. The claimant participated in the hearing. Bonnie Martin, Area Supervisor, 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:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time store manager for Casey's Marketing Company from June 29, 2015 to September 6, 2017. She voluntarily left her employment following a written reprimand and because she did not feel management supported her.

During the week of July 10, 2017, the claimant was on vacation and an employee at her store passed away. The area supervisor attended the funeral and spoke with several employees who made minor complaints about the store and the claimant, mostly about scheduling. After the funeral the group went to an employee's house and the discussion continued. An employee mentioned the gathering to the claimant two weeks later and she was extremely upset. She called the district supervisor and complained she had not been allowed to defend herself. The district supervisor suggested they all meet at a local Perkins restaurant. During the meeting, scheduling was discussed. Employees wanted full-time employees to work every other weekend and the claimant refused to schedule so they had every other weekend off even though that was the policy followed by most of the stores. At one point during the meeting an employee made a suggestion and the area supervisor told her to ask the claimant what she wanted to do and when the employee did so, the claimant said, "What? I wasn't paying attention." The claimant felt the area supervisor was trying to undermine her when the area supervisor was attempting to facilitate communication between the employees and the claimant by holding the meeting.

After the meeting, the area supervisor asked the claimant how she thought the meeting went and the claimant stated she thought it went horribly. She was very upset the area supervisor did not support her decision not to try to schedule full-time employees every other weekend and complained scheduling should be based on business needs and was a condition of employment. The area supervisor agreed that business needs took precedent but given that her other eight stores were able to schedule in that manner, the area supervisor and employees believed the claimant could do so as well. The claimant also felt the "chain of command" was broken because employees believed they could bypass her and go to the area supervisor with their concerns. She stated the area supervisor degraded her management position by giving employees a platform for "stupid" things. After the meeting at Perkins, the food service leader and another kitchen employee came up with a schedule where all full-time employees had every other weekend off, but the claimant refused to consider implementing that schedule.

In late August 2017, there was an incident in the store where one female employee said she was going to "rip (another employee's) fucking head off." The area supervisor was notified of the threat August 31, 2017, and went to the store to let the claimant know about the situation and tell her she needed to conduct an investigation. The area supervisor began gathering statements from employees and was able to contact every employee except the one who made the threat. She told the claimant she needed to get a statement from that employee. On September 5, 2017, the area supervisor called the claimant to ask if she had taken a statement from the employee yet and the claimant indicated she had not. On September 6, 2017, the area supervisor called the claimant and again asked if she had contacted the employee who made the threat and she said no. The area supervisor asked the claimant why and the claimant stated they were not at the store at the same time and then provided the area supervisor with two phone numbers for the employee. There was a store meeting September 6, 2017, and after the meeting the area supervisor issued the claimant a written warning stating she was aware of a physical threat made to one of her employees and failed to act on it and failed to follow up on the investigation by obtaining a written statement regarding the threat. The warning also stated the claimant disclosed confidential information to the employee who threatened the other employee which escalated the situation. The warning concluded by stating the claimant failed to act in a professional manner. The claimant left the office after receiving the warning and left the store. Later she called the area supervisor and said she would be ill the following day. On September 7, 2017, the area supervisor tried to reach the claimant by phone several times without success until the claimant texted her at approximately 6:45 p.m. and stated she would not be returning to work because the area supervisor created a toxic work environment for the claimant and she did not see any way for it to be remedied.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(28) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The claimant was upset about an impromptu meeting held between employees and the area supervisor following the funeral for an employee during which time the claimant was out of town. The claimant later learned of the meeting and believed the area supervisor was trying to undermine her with her employees but the area supervisor was actually trying to expedite communication between the parties. The fact that the area supervisor scheduled another meeting between the claimant and employees so the claimant could participate demonstrates the area supervisor was attempting to encourage employees to speak to the claimant directly. The claimant felt the area supervisor was not supportive of her as a manager in part because she concurred with employees that argued for full-time employees to be scheduled to work every other weekend. The area supervisor supported that idea because she observed it being done successfully at her other eight stores and it was a priority for employees. The claimant did not seem to have an open mind about that proposal arguing the schedule should be dictated by business needs and that working weekends was a condition of employment. While she was right in theory on both counts, the area supervisor wanted her to be aware it could be done successfully. Simply because the area supervisor disagreed with the claimant's conclusion about that idea did not mean she did not support the claimant as a manager.

The claimant voluntarily quit September 6, 2017, after receiving a written warning for failing to properly handle the threat situation involving two employees. The area supervisor directed the claimant to contact and interview the employee who made the threat August 31, 2017, and when the claimant had not done so by September 6, 2017, the employer issued the claimant a written warning. The warning was reasonable as the claimant failed to follow the area supervisor's instructions regarding a threat which is obviously a serious matter.

Under these circumstances, the administrative law judge concludes the claimant has not demonstrated that her leaving was for unlawful, intolerable, or detrimental working conditions as required by Iowa law. Therefore, benefits must be denied.

DECISION:

The September 25, 2017, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn