

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM LEWIS
Claimant

APPEAL NO. 06A-UI-11323-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING CO
Employer

OC: 10/01/06 R: 03
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

William Lewis (claimant) appealed an unemployment insurance decision dated November 13, 2006, reference 02, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Casey's Marketing Company (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 12, 2006. The claimant participated in the hearing with his wife, Wendy Lewis. The employer participated through Doreen Feick, Area Supervisor. 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.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

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 employed as a full-time store manager from October 4, 2006 through October 6, 2006 when he voluntarily quit. He worked for the previous owners of the Handi-mart store for over nine years and when the employer bought out the previous owner, they had meetings with the employees who wanted to stay on at their same jobs. The employer promised employees their schedules, wages and benefits would remain the same. Shortly before his hire date with this employer, the claimant learned that his wages and benefits were significantly reduced but he gave the employer the benefit of the doubt and started anyway. After beginning work for the employer, he was told his schedule was going to change and he was going to have to work on Saturdays. The claimant quit because the employer changed the contract of hire.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by telling the employer he was quitting. He quit because the employer changed the contract of hire shortly before his start date and after he started in his new position. The employer said nothing would change and the claimant's wages, benefits and hours were all changing.

Where a successor employer alters the contract of hire a claimant had with the predecessor employer, the claimant should be told of those changes at the time the successor employer takes over the business. If the contract of hire is substantially changed, a voluntary resignation is for good cause attributable to the employer. Cozad v. IDJS, (Unpublished, Iowa App. 1984). It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has satisfied that burden and benefits are allowed.

The employer is not a base period employer and its account is not subject to any charges during the claimant's current benefit year. If the claimant establishes a subsequent benefit year, the wage credits he earned from October 4, 2006 through October 6, 2006, would be subject to charge since he quit with good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated November 13, 2006, reference 02, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css