

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARLA J RIBBY**  
Claimant

**APPEAL NO. 13A-UI-01837-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 01/13/13**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the representative's decision dated February 7, 2013, reference 01, which held that the claimant was not eligible for unemployment insurance benefits. After due notice was issued, a hearing was held by telephone conference call on March 13, 2013. The claimant participated personally. The employer participated by Joyce Berry, the manager of the store in Montezuma, Iowa. The record consists of the testimony of Carla Ribby; the testimony of Joyce Berry; and Employer's Exhibits 1-5.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge makes the following findings of fact:

The employer is a convenience store located in Montezuma, Iowa. The claimant was hired on April 22, 2011, as a part-time cashier. She was later promoted to assistant manager and became a full-time employee. The claimant's last day of work was December 29, 2012. She voluntarily quit her job on December 29, 2012.

The claimant quit her job because she felt disrespected by the employer. During December 2012, the claimant caught a cold and was sick for approximately four weeks. She found it difficult to take the time off that she needed to get well. All of the store employees were sick during that time and so shifts were being covered by whoever was available. The claimant came into work when she did not feel well because she felt responsible as an assistant manager. The claimant could have declined to come in when asked but she did not do so.

The second situation that upset the claimant was a remark made by the district supervisor on December 17, 2012. The claimant's daughter and another employee got into some kind of altercation. It was serious enough that the claimant's daughter was asked not to come into the store. The district manager said that she needed to come down and review the surveillance

tape so that she could decide what to do about the situation. The claimant was trying to explain her daughter's situation and the district manager said that she "did not want to hear my trailer park drama." The claimant lives in a trailer park and felt degraded and angry about the remark.

The claimant finally decided that had enough of what she called Casey's stuff. She left her smock and keys on the manager's desk. She felt she had to quit her job or end up in the hospital.

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

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

871 IAC 24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant is not eligible for unemployment insurance benefits. The evidence showed that it was the claimant who was the party that discontinued the employment relationship. She no longer wanted to work for Casey's because she felt disrespected. The instances cited by the claimant are insufficient to show that she worked in a hostile or intolerable work environment. The remark made by the district manager was a one-time statement. It did not contain profanity or vulgarity. It was a poor choice of words and the administrative law judge can understand why the claimant might have been upset. But a single statement is insufficient to show a hostile workplace.

The evidence also showed that it was the claimant who chose to work while she was sick. The employer provided credible testimony that the claimant could have refused to work if she truly was unable to do her duties because of illness. The claimant was not in any trouble with the employer over her attendance. There were no repercussions if the claimant had been unable to

work. It is frustrating to have a cold that lingers on but there is no evidence that the claimant was forced to quit because of illness or that a physician recommended she quit.

The most reasonable inference from the evidence is that the claimant quit her job over personal dissatisfaction with the employer, primarily the remark made by the district manager. There is insufficient evidence to show that the claimant quit for good cause attributable to the employer. Benefits are denied.

**DECISION:**

The unemployment insurance decision dated February 7, 2013, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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