

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRENDA L PARKER

Claimant

APPEAL NO. 17A-UI-11423-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 10/15/17

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Brenda Parker (claimant) appealed a representative's November 1, 2017, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Casey's Marketing Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 29, 2017. The claimant participated personally. The employer participated by Jackie Kraft, Store 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 February 12, 2017, as a part-time store associate. She was diagnosed with varicose veins prior to being hired. The claimant developed medical issues when she stood for long periods of time but did not notify the employer of her condition.

On October 5, 2017, the claimant's physician excused her from work from October 4 through October 9, 2017, due to her medical issues. She returned to work on October 10, 2017, and worked from 2:00 p.m. to midnight. On Wednesday, October 11, 2017, at 3:30 a.m. the claimant called the employer and left a message saying she would "not be at work tomorrow". The store manager returned the call at 4:00 a.m. asking if the claimant meant Thursday or Friday. The claimant seemed angry at the store manager for asking the question. The claimant said, "Why don't you just tell me I'm fired". The store manager told the claimant she was not telling her that. The store manager asked her again which day. The claimant hung up the telephone.

The claimant did not appear for work on October 12, 13, or 16, 2017. On October 12, 2017, the claimant went to her doctor and obtained a note excusing her from work from October 12 through October 16, 2017. The claimant did not provide the note to the employer or properly

notify the employer of all the absences. The employer did not see or hear from the claimant after the telephone conversation on October 11, 2017. On October 16, 2017, the claimant asked another employee to return her key to the employer. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant 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 the claimant's actions. The claimant stopped appearing for work and notifying the employer of her absence. There was no evidence presented at the hearing of good cause attributable to the employer. It appears there was miscommunication between the claimant and the employer. The claimant admits to giving the employer no information about her condition, requesting no accommodations, and not providing the second doctor's note. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the employer's testimony to be more credible. The claimant's testimony was internally inconsistent.

DECISION:

The representative's November 1, 2017, decision (reference 01) 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