

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACKLYNN L SMITH
Claimant

APPEAL NO. 11A-UI-10857-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 07/03/11
Claimant: Respondent (4)

Section 96.5-1 - Voluntary Quit of Part-time Job

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated July 3, 2011, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on September 13, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Bob Cooper participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked part time as a cook and cashier about 20 to 30 hours per week for the employer from April 26, 2011, to July 8, 2011. Bob Cooper was the store manager.

The claimant sustained a cut to her hand at work on July 1. She worked on and off after July 1 and had doctor's excuses covering any absences.

The last day she worked was July 8, 2011, for about an hour. On that day, her hand was throbbing and she decided she could not work due to the pain. She told the assistant manager, Shawna Herr, that she needed to leave. She went to the doctor and was excused from working until July 18 because her hand was not healing properly. The claimant brought in an excuse from her doctor that day taking her off work until July 18.

The claimant called the store on July 15 to find out if she was back on the schedule to work the next week. She only spoke to the clerk who told her that she was not on the schedule. Later that day, the claimant talked to the assistant store manager who told the claimant that she was not on the schedule because she had walked off the job on July 8, 2011. The claimant did not ask to speak with Cooper, the store manager, to resolve things or get back on the schedule. As a result, the claimant left employment because she mistakenly believed she had been discharged.

The claimant filed a new claim for unemployment insurance benefits with an effective date of July 3, 2011. The employer was not a base-period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. I conclude the claimant voluntarily quit when she did not report back to work after her release on July 18, 2011. She should not have expected to have been on the schedule after being off work for 10 days. Instead, she should have been calling the store manager to request to be put back on the schedule—assuming her hand had healed and she was able to work again. The fact that she was not on the schedule would not mean she was discharged. The separation should be treated a voluntarily quit employment. She did not have good cause to quit employment attributable to the employer.

871 IAC 24.27 provides that a claimant who voluntarily quits part-time employment without good cause and has not requalified for benefits, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. Instead, the benefits payments will be made based on the wages from the other employers, and the part-time employer's account will not be charged for benefits paid.

The claimant voluntarily quit employment without good cause attributable to the employer. The job, however, was part time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. Pursuant to the rule, the employer's account will not be subject to charge for benefits paid to the claimant.

DECISION:

The unemployment insurance decision dated July 3, 2011, reference 01, is modified in favor of the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs