

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HOLLY J SCHAAF
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL NO. 14A-UI-09752-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/17/14
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated September 11, 2014, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on October 8, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Josh Fenton participated in the hearing on behalf of the employer with a witness, Alisha Weber. Exhibits One and Two were admitted into evidence at the hearing.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked part time for the employer as a cashier from November 19, 2013 to August 7, 2014. When the claimant was hired, she requested and was given a morning shift starting at 5:00 a.m. She needed the morning shift due to childcare arrangements. She did agree that she could work other hours on a temporary, as-needed basis. Under the conditions of employment form signed by the claimant when she started work, it says that although management makes reasonable efforts to accommodate shift preferences, Casey's business demands may at time require overtime work, split shifts, or shifts other than the person's primary shift.

Starting in January 2014 the claimant worked almost exclusively a shift from 5:00 a.m. to 8:00 a.m. or 9:00 a.m., four or five days per week. She agreed to work one 2:00 p.m. to 11:00 p.m. shift in May 2014, but otherwise consistently worked the early morning shift.

In early August 2014 the store manager, Josh Fenton, said that she would no longer be working the morning shift and the hours available would be working a shift from 2:00 p.m. to 11:00 p.m. The claimant asked Fenton if her position was still available. Fenton told her that her morning shift job was not available.

The claimant decided not to accept the change in her scheduled hours because of childcare concerns and left employment.

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. Although the claimant asserted that Fenton had agreed that she was laid off, the evidence establishes that the claimant knew that the employer had work for her if she was willing to work the 2:00 p.m. to 11:00 p.m. shift. She declined that work and would be considered to have quit employment with the employer.

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

I believe the claimant testimony that there was an agreement that her primary shift would be working the 5 a.m. early morning shift. That shift no longer was available for the claimant. The change in her shift and work hours amounts to a substantial change in the terms of employment. The conditions of employment form actually refers to employee's having primary shifts and discusses that they might have to vary from that shift for business needs. In this case, the claimant's primary shift was taken from her and the hours offered were totally different. Good cause, attributable to the employer, for quitting has been shown in this case.

DECISION:

The unemployment insurance decision dated September 11, 2014, reference 01, is affirmed. 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/can