

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA DOSTAL

Claimant

APPEAL NO: 16A-UI-13389-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY

Employer

OC: 11/20/16

Claimant: Respondent (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 8, 2016, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on January 10, 2017. The claimant participated in the hearing. Melinda Karl, Leave Specialist; Amy McCombs, Area Supervisor; Trent Forrest, Store Manager; and Alisha Weber, Employer Representative (Fact-finding only); participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time store employee for Casey's from March 4, 2014 to October 7, 2016. She voluntarily left her employment by failing to return from family and medical leave (FML) or contact the employer by October 2, 2016, when her leave expired.

The employer received a medical note from the claimant July 22, 2016, stating she needed to be off from July 11 through July 26, 2016. The employer determined the claimant was eligible for FML and sent her the paperwork July 25, 2016. The employer then received a series of medical notes excusing the claimant's absences through September 16, 2016, and the employer granted her FML. On September 16, 2016, the employer sent the claimant a certified letter notifying her that her FML was set to expire October 2, 2016, and the claimant signed for the letter September 21, 2016. The letter stated if the employer did not hear from the claimant by October 2, 2016, it would assume the claimant voluntarily quit her job and stated if she had any questions to contact the employer's leave specialist. The claimant had a medical appointment September 19, 2016, but did not provide the employer with any updates or further medical notes. The employer did not receive a response from the claimant by October 2, 2016. On October 5, 2016, the employer left the claimant a voice mail instructing her to contact the employer by noon October 7, 2016. When the claimant did not contact the employer by that date and time the employer gave the store manager the authority to consider the claimant to have self-terminated. The claimant called and left a voice mail for the employer at 3:09 p.m.

stating she did not return to the doctor until October 13, 2016, but the employer had already determined the claimant voluntarily quit her job.

The claimant filed a complaint with the employer August 22, 2016, regarding an incident with her manager June 30, 2016. The claimant was in the habit of leaving notes for other employees on their shortcomings as perceived by the claimant although she had no supervisory authority. That behavior upset other employees. One of those employees was scheduled to report to work at 3:00 p.m. June 30, 2016, and the manager was going to talk to her and then sit down with the claimant and that employee to discuss the friction between them. The claimant agreed to that course of action but approximately one hour later told the manager when his boss called she wanted to talk to her because she was not going to work with the employee who complained about her list that was coming in at 3:00 p.m. .The claimant stated her manager called her into the office and slammed a chair and the office door and yelled at her. The claimant stated he would not let her leave the office but when the employer watched the surveillance video of the incident it observed the manager push the chair out of the middle of the office toward the desk against the wall and the claimant crying, which was not an unusual occurrence. The manager admitted he was frustrated the claimant did not give him time to resolve the situation that day and raised his voice but denied he prevented her from leaving the office and the video backed him up. The manager apologized to the claimant later that day because she cried during the meeting and the claimant appeared to accept his apology. She texted him at 8:23 p.m. and said she would be in the following day and thanked him for his understanding. After the claimant complained about the incident in the office August 22, 2016, and the employer watched the video, the employer told the manager his behavior, in raising his voice to the claimant, was inappropriate.

The claimant has claimed but not received unemployment insurance benefits to date because she has not been released to return to work and consequently is not considered able and available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The claimant voluntarily quit her job by failing to contact the employer or return from a leave of absence. She was granted FML and provided the employer with the required paperwork covering her absence until September 16, 2016. The employer sent the claimant a certified letter September 16, 2016, notifying her that her FMLA expired October 2, 2016, but although the claimant signed for the letter September 19, 2016, she did not respond to the letter by

contacting the employer by October 2, 2016. The employer called the claimant and gave her three additional days to respond but the claimant failed to do so in the time allowed.

The claimant clearly had a responsibility to comply with the requirements of the FML program but failed to do so. She did not contact the employer or provide additional medical documentation excusing her absence after October 2, 2016. While she may have had another medical appointment October 13, 2016, the employer had no way of knowing that or that the claimant wanted to continue her employment and the certified letter plainly stated if she had any questions she should contact the employer's leave specialist. Under these circumstances, the claimant's actions are considered a voluntary leaving of employment.

In the alternative, the claimant testified she was upset about her meeting with the store manager June 30, 2016, and did not report to work when he was scheduled to work after that date. If the claimant quit because of that meeting, she has not established that as good cause for her leaving. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Florida App. 1973). She was engaging in disruptive behavior and the manager had coddled her up to June 30, 2016, when her behavior was again inappropriate. She agreed to meet with one of her aggrieved co-workers after the manager spoke to the co-worker June 30, 2016, but after giving her assent she then told the manager she wanted to speak to his manager before the meeting could even take place. That understandably frustrated the manager and while he should not have raised his voice, the manager testified he did not shove the desk chair or slam the office door and he did not trap the claimant inside the office. The employer's witnesses who saw the video of the meeting also credibly testified that did not happen and the claimant's accusations were irresponsible. Having a manager raise his voice on one occasion is not good cause attributable to the employer for the claimant leaving her employment.

The claimant has not established that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

DECISION:

The December 8, 2016, reference 01, decision is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant has not received benefits to date because she has not been released to return to work and consequently there is no overpayment of benefits.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs