

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

YVONNE R AVANT
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL 15A-UI-08985-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/19/15
Claimant: Appellant (1)

Iowa Code § 96.5(1)d – Voluntary Leaving/Illness or Injury
871 IAC 24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 5, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 31, 2015. Claimant did participate. Employer participated through Jackie Peel, Manager. Employer's Exhibit One was entered and received into the record.

ISSUES:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a second assistant manager beginning on January 12, 2010 through September 4, 2014 when she voluntarily quit.

The claimant sustained a work-related injury and had a doctor's note taking her off work until September 3, 2014. The claimant did not return to work or call the employer to tell them she was not returning to work. She did not ask her doctor for any additional time off work. Her treating physician did not advise her to quit her job. The claimant decided to voluntarily quit and did so.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

The claimant did not present evidence in writing to the employer that a physician suggested leaving the employment and no work restrictions were in force. Under these circumstances her leaving was without good cause attributable to the employer. Benefits are denied.

DECISION:

The August 5, 2015, (reference 01) decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs