

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT A EGAN**  
Claimant

**APPEAL NO. 08A-UI-08683-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S RETAIL COMPANY**  
Employer

**OC: 08/24/08 R: 03**  
**Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Leaving  
Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 18, 2008, reference 01, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on October 14, 2008. Claimant participated. Employer participated through Lindsey Lerch.

**ISSUE:**

The issue is whether claimant quit the employment without good cause attributable to the employer or if he was discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time donut maker from May 13, 2008 until August 26, 2008, when he quit. On the morning of Tuesday, August 26, he was putting donuts away and Lerch told him she was happy he was getting better and soon they would be able to put the medical issues behind them. After she asked him about a report that he had been fishing instead of working, since he was medically limited to the number of hours he could work, he became upset so she told him to “drop the attitude” and they would talk about it. He “screamed and yelled” and said he would not drop the attitude because he was “pissed.” She told him again she was happy he was getting better and asked him to “please calm down because you are scaring me.” He then took off his hat and apron and threw them on the floor and asked her if he was fired. She said, “No, you are not fired; you are scaring me and I need you to go home and calm down and come back and talk to me when you have calmed down.” Then he picked up his hat and apron and threw them in the office and continued to yell at Lerch saying, “I quit, I’m going down to the Workforce and this isn’t the last you’ve heard of me.” At hearing claimant argued he did not say that and did not file his claim until Thursday, August 28, but the administrative record reflects he filed his claim on Tuesday, August 26. On Wednesday, August 27 claimant sent his wife into the store to ask Lerch if he was fired. She could not discuss personnel matters with anyone else, so she went out to the parking lot with her supervisor, Blake Homewood, who told him he was not fired but that he had quit of his own

accord. When claimant continued to be belligerent, the police were called and claimant was banned from Casey's properties. Claimant argues a medication he takes makes him upset but did not provide medical documentation to support that claim.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not discharged but voluntarily left his employment without good cause attributable to the employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

871 IAC 24.25(22), (28), and (37) provide:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(22) The claimant left because of a personality conflict with the supervisor.

(28) The claimant left after being reprimanded.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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 has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

Employer's recollection of the events is considered credible based upon cross-examination and because of claimant's false argument he did not file his claim until Thursday, August 28. Claimant's decision to quit after having been confronted about violating his medical restrictions was not a good-cause reason attributable to the employer for leaving the employment. Benefits are denied.

**DECISION:**

The September 18, 2008, reference 01, decision is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Inasmuch as no benefits were paid, no overpayment applies.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw