

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIDGET WILLARD
Claimant

APPEAL NO: 15A-UI-06288-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY
Employer

OC: 05/10/15
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 22, 2015, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 13, 2015. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Kelly Jorgensen, Store Manager and Alisha Weber, Unemployment Insurance Consultant, participated in the hearing on behalf of the employer. Employer's Exhibits One through Four were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment.

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 cashier and kitchen employee for Casey's from May 21, 2007 to March 25, 2015. The claimant was scheduled to work March 22, 23 and 24, 2015, but failed to call the employer or show up for work on those three dates. She was scheduled to work at noon to help unload the delivery truck March 23, 2015. She did call the employer at 2:00 p.m. and stated she just woke up. She asked Store Manager Kelly Jorgensen to pick her up but Ms. Jorgensen told her she could not do so because she was unloading the truck. Ms. Jorgensen told the claimant she "couldn't keep covering for her" and the claimant did not respond so Ms. Jorgensen said, "I'll talk to you later then?" and the claimant said, "Yes," and they ended the conversation. The employer considered the claimant a no-call/no-show that day because it had to call another employee to cover for her at 1:00 p.m. The claimant then failed to call or show up for work March 24, 2015, and never contacted the employer again.

The claimant received a written warning February 16, 2015, for tardiness as she was 30 minutes late on that date (Employer's Exhibit Three).

The claimant filed a claim for benefits with an effective date of May 10, 2015. She filed a weekly claim for the week ending May 16, 2015, but was denied benefits because she had been disqualified on another issue. Consequently, the claimant has not received any unemployment insurance benefits since filing her claim.

The employer participated personally in the fact-finding interview through the statements of Unemployment Insurance Consultant Alisha Weber. Ms. Weber also submitted written documentation prior to the fact-finding statement.

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 section 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.

Iowa Admin. Code r. 871-24.25(4) provides:

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 section 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 section 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days in violation of the employer's policy, she is considered to have voluntarily left her employment without good cause attributable to the employer after being warned about her attendance on several prior occasions. Therefore, benefits are denied.

The claimant has not received unemployment insurance benefits since her separation from this employer as she has been disqualified on another issue.

DECISION:

The May 22, 2015, 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 any benefits to date and consequently there is no overpayment issue in this case.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css