

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN HOWARD
Claimant

APPEAL NO. 07A-UI-09361-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING CO
Employer

OC: 09/09/07 R: 01
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Steven Howard (claimant) appealed an unemployment insurance decision dated October 2, 2007, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Casey's Marketing Company (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 22, 2007. The claimant participated in the hearing. The employer participated through Kathi Sharp, Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a part-time general laborer from September 6, 2001 through September 7, 2007. He was paid overtime for working on September 3, 2007, but he mostly stood around that day without completing his job duties. He did not sweep the parking lot, stock the cooler, or clean the shelves. The cashier and the baker had to repeatedly go outside to call him back in to work. When the claimant picked up his paycheck on September 7, 2007, the manager issued him a written warning for poor work performance. The manager asked him what was going on and the claimant said he did not want to work there anymore. He left and went down the street to another Casey's store. He was scheduled to work later that day at 4:00 p.m., but the employer took no action, since the claimant often made statements that he later regretted. However, the claimant told the employees in the other store that he just quit and the store employees notified the manager of the claimant's store. The claimant returned to his store and gave the employer his door key. The manager asked him if he was going to give a two-week notice and the claimant told her no. The employer told him that she had no one else to work for him that night and the claimant

stated that he did not care. He said that he was not giving notice because he had to go out of town that day and then walked out.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant contends that he was fired, but at one point stated he quit for medical reasons. When questioned about quitting, he again testified that he was fired. The overwhelming weight of the evidence concludes the claimant voluntarily quit. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit by telling the employer he no longer wanted to work there and telling the employees of another store that he had just quit. He acted to carry it out by giving the employer his key to the store and refusing her request that he work out a two-week notice.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated October 2, 2007, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw