

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNA M GAUL
Claimant

APPEAL NO. 09A-UI-18777-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEAVER ENTERPRISES LTD
Employer

OC: 10-04-09
Claimant: Appellant (2)

Iowa Code Section 96.5(1) – Voluntary Leaving
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 8, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 27, 2010. The claimant did participate. The employer did participate through Terry Moffitt, Director of Operations.

ISSUE:

Did the claimant voluntarily quit her employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a team member part time beginning January 23, 2009 through September 26, 2009 when she voluntarily quit.

When the claimant was hired she was told that she would be given between 10 and 15 hours per week. Business was slow and the claimant was routinely being sent home early due to lack of sales and the employer's need to keep labor costs low. The claimant was routinely being given almost 50 percent fewer hours than when she was hired. The claimant had a drop in her earning from \$1,700.00 in the second quarter to \$900.00 in the third quarter. The claimant was attending school full time when she was hired. Her school attendance was not the reason that her hours were reduced, it was because the employer was suffering low sales and was sending her and other employees home early on a routine basis.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment with 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.

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

In general, a substantial pay reduction of 25 to 35 percent or a similar reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. EAB*, 433 N.W.2d 700 (Iowa 1988). Inasmuch as the claimant would suffer a reduction of almost fifty percent of her hours of work, the change of the original terms of hire is considered substantial. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The December 8, 2009, reference 01, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs