

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOYCE LAMBERT**

Claimant

**APPEAL NO. 11A-UI-11267-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**

Employer

**OC: 07/24/11**

**Claimant: Respondent (1-R)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 23, 2011, reference 03, decision that allowed benefits. After due notice was issued, a hearing was held on September 15, 2011. Claimant Joyce Lambert participated. Holly Carter, unemployment insurance specialist, represented the employer and presented additional testimony through Mary Ann Longbine and Norma Martinez. Exhibits One through Six and B were received into evidence.

**ISSUE:**

Whether Ms. Lambert's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Joyce Lambert was employed by Advance Services as a full-time administrative assistant at the employer's Lone Tree office located within Syngenta Seeds from August 2, 2010 until September 13, 2010, when she voluntarily quit. Ms. Lambert was hired to assist with the hiring of temporary workers to fulfill the needs of Syngenta Seeds during the 2010 fall harvest. Mary Ann Longbine, Advance Services human resources coordinator and office manager, interviewed, hired, and supervised Ms. Lambert's employment.

On August 2, 2010, Ms. Longbine had Ms. Lambert sign a Job Assignment Sheet. That document indicated that the employment would start that day and that the shift to be worked would be 7:00 a.m. to 3:30 p.m. Ms. Lambert discussed with Ms. Longbine that she was taking classes on Tuesdays and Thursdays beginning at 5:00 p.m. and could not work beyond 4:30 p.m. Ms. Lambert had discussed with Ms. Longbine that she was a parent and would need to get her children off to school in the morning once school started. At the time of hire, Ms. Longbine discussed with Ms. Lambert that the August hours would actually start at 8:00 a.m. while the employer was engaged in hiring the temporary workers, but would switch to the earlier, 7:00 a.m., start time once harvest began at the end of August. Ms. Longbine discussed with Ms. Lambert that she could be asked to work some Saturdays once harvest started.

The hours Ms. Lambert actually worked during the brief employment were as follows:

|      |                         |
|------|-------------------------|
| 8/2  | 8:00 a.m. to 5:15 p.m.  |
| 8/3  | 8:00 a.m. to 3:30 p.m.  |
| 8/4  | 8:00 a.m. to 5:30 p.m.  |
| 8/5  | 8:30 a.m. to 3:15 p.m.  |
| 8/6  | 8:30 a.m. to 3:00 p.m.  |
| 8/9  | 8:30 a.m. to 3:30 p.m.  |
| 8/10 | 8:30 a.m. to 3:30 p.m.  |
| 8/11 | 8:30 a.m. to 2:15 p.m.  |
| 8/12 | Did not work            |
| 8/13 | 8:30 a.m. to 2:30 p.m.  |
| 8/16 | 8:30 a.m. to 3:15 p.m.  |
| 8/17 | 8:30 a.m. to 3:45 p.m.  |
| 8/18 | 8:30 a.m. to 3:15 p.m.  |
| 8/19 | 8:30 a.m. to 1:00 p.m.  |
| 8/20 | 8:30 a.m. to 3:00 p.m.  |
| 8/23 | 11:15 a.m. to 3:00 p.m. |
| 8/24 | Did not work            |
| 8/25 | 8:30 a.m. to 3:00 p.m.  |
| 8/26 | 7:45 a.m. to 5:15 p.m.  |
| 8/27 | 8:00 a.m. to 4:45 p.m.  |
| 8/30 | 8:00 a.m. to 3:30 p.m.  |
| 8/31 | 7:30 a.m. to 4:15 p.m.  |
| 9/1  | 6:30 a.m. to 3:30 p.m.  |
| 9/2  | 6:30 a.m. to 2:30 p.m.  |
| 9/3  | 6:30 a.m. to 11:30 a.m. |

Though Ms. Lambert also performed work for another week beyond the dates referenced above, her timesheet for that additional week is conspicuously absent from the exhibit materials submitted by the employer. See Exhibit Five. On those days when Ms. Lambert arrived to work later than 8:00 a.m., Ms. Lambert had elected to do so. The employer acquiesced in an 8:30 a.m. arrival time before harvest started. On those days when Ms. Lambert left work prior to 3:30 p.m., Ms. Lambert had elected to do so.

Toward the end of the end of the brief employment, Ms. Longbine changed the hours she expected Ms. Lambert to work. Now she wanted her to arrive at 6:30 a.m. to let the workers into the facility. This conflicted with Ms. Lambert's parenting responsibilities and was contrary to the understanding Ms. Lambert had with Ms. Longbine at the time of hire that she would not be asked to appear before 7:00 a.m. In addition, Ms. Longbine began to require that Ms. Lambert sometimes stay later than usual. In response to this, Ms. Lambert looked for other employment and thought she had secured other employment. On September 10, Ms. Lambert sent Ms. Longbine an e-mail message indicating that on September 14 she needed to leave at 1:15 p.m. for an interview. On the evening of Sunday, September 12, Ms. Lambert sent Ms. Longbine an e-mail message indicating she could not appear for work on Monday, September 13, for personal reasons. Ms. Longbine did not see this e-mail message until after the start of business on September 13. The Syngenta Seeds plant manager had to let in the temporary workers because Ms. Lambert was not there at 6:30 a.m. to let them in. Later on

September 13, Ms. Lambert left Ms. Longbine a voice mail message indicating that she was quitting to accept other employment. Ms. Lambert did not in fact start other employment and conveyed this to Ms. Longbine when she came to collect her final check.

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

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. Id. An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The weight of the evidence in the record establishes that Ms. Longbine changed the hours of the employment after Ms. Lambert had been in the employment for a few weeks. The weight of evidence indicates that Ms. Lambert did not know at the time she accepted the employment that the employer would end up requiring that she appear for work at 6:30 a.m., rather than the 7:00-8:00 a.m. start discussed at the time of hire. Pushing the start time that much earlier in the morning did constitute a substantial change in the conditions of the employment. The weight of the evidence also indicates that toward the end of the employment, the employer began to require that Ms. Lambert sometimes stay later than had been agreed. This also constituted a substantial change in the conditions of the employment. Though Ms. Lambert referenced a new

job when she notified the employer of her quit, the evidence indicates that the change in work hours factored substantially in the decision to quit.

Ms. Lambert's voluntary quit was for good cause attributable to the employer. Accordingly, Ms. Lambert is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Lambert.

The evidence raises the question of whether Ms. Lambert had been able to work and available for work while receiving unemployment insurance benefits. This matter will be remanded to the Claims Division so that those issues may be adjudicated.

**DECISION:**

The Agency representatives August 23, 2011, reference 03, decision is affirmed. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

This matter is remanded to the Claims Division for adjudication of whether the claimant has been able to work and available for work while receiving unemployment insurance benefits. The Claims Division should look as far back in time as the Claims Division deems appropriate.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw