

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TABATHA KLASSY

Claimant

FOCUS SERVICES LLC

Employer

APPEAL 18A-UI-03028-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/04/18

Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Admin. Code r. 871-24.26(1) – Voluntary Quitting – Change in Contract of Hire

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated February 27, 2018, (reference 01) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 2, 2018. Claimant participated. Employer participated by Joy Hoagland, Director.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 9, 2018. Claimant resigned from the employment on that date because she was being demoted, and her pay was slated to decrease by over 30 percent.

Claimant began working for employer on September 18, 2014, and was serving as a quality assurance specialist at the time of the separation. Claimant was making \$11.93 as a quality assurance specialist. Claimant was going to be demoted to an agent. An agent makes \$8.00 an hour.

Claimant would be working with agents that she had previously trained and managed. The demotion and decrease in pay was not as a result of job-related misconduct. Employer was demoting claimant because its sales were down, and it needed to make changes until profits increased.

Claimant met with employer and explained that she was not comfortable working with employees she had trained and supervised, and that she was not able to continue working there if her pay was going to be reduced. Claimant gave notice that her last day of work would be on

February 9, 2018. Employer accepted claimant's resignation, and it was not able to pay claimant the salary as agreed upon in its original contract of hire.

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, regardless of the source of the individual's wage credits:

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. 871-24.26(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. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). A refusal to accept a night shift position at a sanitarium constitutes a good cause quit attributable to the employer when that shift would endanger the claimant's health. *Forrest Park Sanitarium v. Miller*, 333 Iowa 1341, 11 N.W.2d 582 (Iowa 1943).

Since there was no disqualifying basis for the demotion, the quit because of the change in contract of hire was with good cause attributable to the employer. Inasmuch as the claimant would suffer a substantial reduction in pay, and employer has not established misconduct as a reason for the effective demotion, 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 February 27, 2018, (reference 01) decision is affirmed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn