

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID F GAGE

Claimant

APPEAL NO: 17A-UI-13296-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLLAR TREE STORES INC

Employer

OC: 11/26/17

Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

David F. Gage, the claimant, filed a timely appeal from a representative's unemployment insurance decision dated December 19, 2017, reference 01 which denied benefits finding that the claimant voluntarily quit work on November 16, 2017 because the claimant did not like the work environment. After due notice was issued, a telephone hearing was held on January 18, 2018. Claimant participated. Participating as witness for the claimant was Mr. Ronald Ginther. Although duly notified, the employer did not participate. The employer's witness was not available at the telephone number provided. Two attempts were made, two messages were left.

ISSUE:

Whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds: David F Gage was employed by Dollar Tree Stores, Inc. from May, 2017 until November 16, 2017, when he quit employment. At the time of hire, it was agreed that the claimant would be employed at a minimum of 20 working hours each week. Claimant was paid by the hour. His last immediate supervisor was Mr. Anthony Young, Store Manager.

Mr. Gage left his employment with Dollar Tree Stores, Inc. on November 16, 2017, after his last manager had chosen to reduce the claimant's working hours below the minimum 20 hours per week as agreed upon at hire, and it appeared he was choosing to give the hours to more favored employee's.

At the time that Mr. Gage was hired by the company, it was specifically agreed that the claimant would be scheduled a minimum of 20 working hours each week. Mr. Gage worked a substantial period of time getting at least 20 hours of work per week. Later, when a new store manager took over, the claimant's working hours began to drop. The claimant followed a reasonable course of action by complaining about the reduction of his working hours below the 20 hours per

week that had been agreed upon. When Mr. Young, the new manager took no action, the claimant complained to the company's district manager who intervened.

The district manager instructed Mr. Young to restore Mr. Gage's working hours to at least 20 hours per week as agreed upon at hire. Mr. Young did so for a period of time.

After the district manager who had assisted Mr. Gage left the company, the store manager, again began reducing Mr. Gage's work hours below the number agreed upon at hire. Once again, Mr. Gage complained about the reduction in hours to his manager and to the new company's district's manager. Nevertheless, Mr. Young continued to reduce the claimant's working hours, below the agreed upon level, and appeared to give the hours to newly hired employees. The claimant quit employment.

In addition to Mr. Gage's dissatisfaction with the company changing the agreement of hire with respect to his working hours, Mr. Gage also had additional concerns. The claimant believed that he had been intentionally ridiculed by Mr. Young on a number of occasions, and that the manager had made disparaging statements about Mr. Gage in the presence of other employee's. Mr. Gage believed that he had been discriminated against because manager required certain formalities on the part of Mr. Gage before clocking in however, other employees were not required to follow the same procedures before clocking in. The claimant was required to fill production quotas when other employee's had not been required to do so.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons, the administrative law judge concludes the claimant left employment with good cause that was attributable to the employer.

Iowa Code § 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.

The claimant quit his employment on November 16, 2017, due to a change in the contract of hire. At the time of hire, it had been specifically agreed that Mr. Gage would be scheduled for a minimum of 20 hours per week. The most recent store manager had reduced the claimant's

working hours below 20 hours per week, although new employees were given additional work hours.

A change in the contract of hire means a substantial change in the terms or conditions of employment. See *Wiese v. Iowa Department of Job Service*, 389 N.W.2d 676 (Iowa 1986). Generally a substantial reduction in hours or pay would give an employee a good reason for quitting. See *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, Iowa courts look at the impact on the claimant rather than the employer's motivation.

In this case, the change in the contract of hire resulted in the claimant being assigned substantially fewer hours each week. The law presumes the claimant left employment with good cause when he or she quits because of a change in the contract of hire. See 871 IA C24.26 (1). However, in order to show good cause for leaving employment based upon a change in the contract of hire, the employer's regard to take a reasonable step in informing the employer for the reasons for quitting in order to give the employer an opportunity to address and resolve the complaint. See *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). In this case, the claimant did bring his concerns to the attention of the company on numerous occasions; however the claimant's manager continued to assign him substantially fewer working hours each week that was agreed at the time of hire. The claimant's leaving was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The representative's decision dated December 19, 2017, reference 01 is reversed. Claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant meets all the eligibility requirements of Iowa law.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn