

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER SCHLICHTER
Claimant

APPEAL NO: 09A-UI-03147-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOB-LOB LTD
Employer

OC: 01-25-09
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 19, 2009, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on March 24, 2009. The claimant participated in the hearing. Ben Waldschmidt, Manager, participated in the hearing on behalf of the employer. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left his employment for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time co-manager for Hobby Lobby from November 12, 2007 to December 15, 2008. At the time of hire, and in the employer's literature, it states the store is closed on Sundays (Claimant's Exhibit A). The claimant chose Hobby Lobby over another company because it emphasized family time and not working Sundays. The claimant quit because he was working seven days a week, even though the store was closed on Sundays, and he lost 40 pounds and his health was deteriorating. When he told the employer he could not work seven days per week he did not receive any response. Finally he decided he could no longer continue working seven days per week and voluntarily left his position.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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.

After the interviewing process and reading the employer's literature the claimant chose Hobby Lobby over another employer because it placed importance on family time and the stores were not open on Sundays. After accepting the job the claimant often worked seven days per week and it was affecting his health. When he accepted the position he did not expect to work on Sundays or seven days per week. Inasmuch as the claimant was misled about working Sundays and would suffer a significant change in the number of hours called for in the original terms of hire, the change is considered substantial. Consequently, benefits must be allowed.

DECISION:

The February 19, 2009, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs