

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RONALD D JONES**  
Claimant

**APPEAL NO. 12A-UI-06586-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF GRINNELL**  
Employer

**OC: 05/13/12**  
**Claimant: Respondent (2/R)**

871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

**STATEMENT OF THE CASE:**

City of Grinnell (employer) appealed a representative's June 4, 2012 decision (reference 01) that concluded Ronald Jones (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 27, 2012. The claimant participated personally. He offered one additional witness, Michael Johnson, former co-worker. The employer participated by Russ Behrens, city manager, and David Popp, public service director.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on November 5, 2007, as a part-time street sweeper operator. At the end of his employment, he was working Monday through Wednesday from 7:00 a.m. to 3:00 p.m. On May 14, 2012, the employer asked the claimant to start working Monday, Tuesday and Friday from 5:00 a.m. to 1:00 p.m. The claimant did not want to work on Fridays, as he wanted the same days off as his wife had off due to her illness. The employer understood that the claimant was asking for accommodations and was attempting to work with him, but the employer was busy with another matter on May 14, 2012. The claimant quit work because he had to work on Fridays. The claimant did not tell the employer he was going to quit unless accommodated. Continued work was available had the claimant not resigned.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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.

An employee must give prior notice to the employer before quitting due to a change in the contract of hire. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). In order to show good cause for leaving employment based on a change in the contract for hire, an employee is required to take the reasonable step of informing the employer about the change that the employee believes are substantial and that he intends to quit employment unless the conditions are corrected. The employer must be allowed a chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant informed the employer of the substantial change at issue but did not indicate that he intended to quit if the changes were not addressed. Due to the claimant's failure to give the employer notice, there cannot be a finding that he left work with good cause attributable to the employer and, therefore, the claimant is not eligible to receive unemployment insurance benefits.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits,

as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received benefits since filing the claim herein. Pursuant to this decision, those benefits may now constitute an overpayment. The issue of the overpayment is remanded for determination.

**DECISION:**

The representative's June 4, 2012 decision (reference 01) is reversed. The claimant voluntarily quit without good cause attributable to the employer. The claimant is not eligible to receive unemployment insurance benefits. The issue of the overpayment is remanded for determination.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw