

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

VICKI L BOWERS  
1305 S LINN #208  
BOONE IA 50036

TAHER INC  
5570 SMETANA DR  
MINNETONKA MN 55343

Appeal Number: 04A-UI-00113-LT  
OC 11-23-03 R 02  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the December 30, 2003, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 28, 2004. Claimant did participate. Employer did participate through Joanne Chrusciel. Claimant's Exhibits A and B were received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time food service aide at Ames High School snack bar through outsource contractor, Taher Inc., through November 26, 2003 when she quit. She worked 8:30

a.m. to 2:30 p.m. until November 2003 when her hours were cut by six hours per week. She did not object or quit at that time.

On Wednesday, November 26, Gayle, Supervisor, told claimant to report to work at Meeker Elementary School. Claimant told her she was not going since it was not in her job description. Claimant does not have adequate transportation during the day to move to another school but she did not raise this issue with employer. The food service director told claimant to work at Meeker or "walk." Claimant left the employment at that point. The location reassignment was initially set to last for a couple of days but employer determined after the separation the reassignment would have become permanent. The hours and wages were to remain the same.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment without 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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). In general, a substantial pay reduction or 25 to 35 percent reduction of working hours creates good cause attributable to the employer for a resignation. Dehmel v. EAB, 433 N.W.2d 700 (Iowa 1988). However, claimant did not quit at the time her hours were reduced but acquiesced to the changes and continued to work under those terms.

Inasmuch as the reassignment was only a change of work location, the change of the original terms of hire is not considered substantial. Furthermore, claimant did not raise the issue of transportation problems with employer or seek accommodation for this issue. Thus, the separation was without good cause attributable to the employer. Benefits are denied.

DECISION:

The December 30, 2003, reference 01, decision is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

dml/b