

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA M SKIPTON
Claimant

APPEAL NO. 07O-UI-10153-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HEARTLAND HEALTH MANAGEMENT
ARBOR COURT INC**
Employer

**OC: 07/22/07 R: 04
Claimant: Respondent (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Heartland Health Management, doing business as Arbor Court, Inc., filed a timely appeal from the August 28, 2007, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on November 20, 2007. Claimant Angela Skipton participated. Sheila Matheney, Administrator, participated. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibits Four through Seven in to evidence.

ISSUES:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the claimant quit the employment in response to a significant change in the conditions of the employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Angela Skipton commenced her employment with Arbor Court as a part-time Dietary Aid on October 17, 2007. Within a week of commencing her employment, Ms. Skipton was promoted to full-time evening cook. Ms. Skipton's hours as full-time evening cook were 1:30 p.m. to 8:00 p.m. On January 1, 2007, Ms. Skipton became the full-time day cook. Ms. Skipton's hours as full-time day cook were 5:30 a.m. to 1:30 p.m. Ms. Skipton did on occasion agree to work an evening shift as needed. Ms. Skipton's transition from evening to day hours coincided with the transition of the previous day cook to part-time on-call status employment.

In April 2007, the previous day cook, Ryan, returned to full-time employment at Arbor Court as the evening cook. Ryan also worked some daytime weekend shifts. At the time of Ryan's return, Ms. Skipton has been in her day-shift hours for more than three months. Ryan subsequently approached Administrator Sheila Matheney and requested more day-shift hours. Ms. Matheney decided to accommodate Ryan's request for daytime hours by reducing Ms. Skipton's day-shift hours by half and assigning Ms. Skipton evening hours for half of her shifts. Ms. Matheney directed Dietary Supervisor Christine Malcolm to meet with Ms. Skipton

and Ryan to reach a resolution. Ms. Matheney gave Ms. Skipton examples of acceptable resolutions, which would have Ms. Skipton and Ryan working an equal number of day-shift hours by working day-shift hours during alternating weeks, months, or a six-month period.

On April 23, Ms. Malcolm met with Ms. Skipton and Ryan as directed by Ms. Matheney. Ms. Malcolm advised Ms. Skipton that she would have to commence equally sharing the day-shift hours with Ryan and that the change would be effective immediately. Ms. Skipton did not believe it was fair to take day-shift hours away from her. Immediately following the meeting, Ms. Skipton submitted her resignation to Ms. Malcolm. Ms. Skipton and Ms. Malcolm executed and signed a resignation letter that indicated Ms. Skipton's final day in the employment would be May 6, 2007.

Ms. Skipton last appeared and worked a shift on May 2, 2007. On May 3, Ms. Skipton and another employee were each scheduled to wash dishes during the day-shift. The other employee ended up working the shift and Ms. Skipton was relieved of the obligation to appear for that shift. On May 4, Ms. Skipton was scheduled to cover a shift for an employee who had worked a shift for Ms. Skipton a week earlier. Ms. Skipton notified the dietary department that she would not be appearing for the shift. Ms. Skipton was scheduled to work on May 5, but did not appear for that shift or notify the employer she would be absent. Ms. Skipton did not make further contact with the employer.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986).

Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. Id. An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The greater weight of the evidence indicates that Ms. Skipton resigned in response to a significant change in the conditions of her employment. The significant change was Ms. Skipton's immediate involuntary loss of one-half of her day-shift hours. Ms. Skipton reasonably concluded, based on information she received from Dietary Supervisor Christine Malcolm, that the change in hours would be immediate and permanent. Ms. Skipton declined to acquiesce in the change and submitted her resignation in a timely fashion.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Skipton voluntarily quit the employment for good cause attributable to the employer. Accordingly, Ms. Skipton is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Skipton.

DECISION:

The Agency representative's August 28, 2007, reference 01, decision is affirmed. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw