

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

TOM REUER
Claimant

APPEAL NO. 18A-UCFE-00042-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

US POSTAL SERVICE
Employer

OC: 11/25/18
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

Tom Reuer (claimant) appealed a representative's December 20, 2018, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with US Postal Service (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 11, 2019. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 19, 2017, as a mostly full-time non-career substitute city carrier assistant. At the time he was hired he agreed to work Monday through Saturday hours.

In the winter of 2017, the employer instituted Amazon package delivery on Sundays and holidays. The claimant was placed on an every other Sunday and every other holiday work rotation. On November 10, 2018, the claimant gave his supervisor verbal notice of resignation effective November 23, 2018. The claimant quit work because the Sunday and holiday hours were undesirable. He worked through November 23, 2018. 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.

Iowa Code section 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. 871-24.25(18) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(18) The claimant left because of a dislike of the shift worked.

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer he was quitting and he stopped appearing for work.

The claimant argues that he quit work because the employer added extra days to his schedule. A change in one's hours or shift is a substantial change in one's contract for hire. This change in the claimant's schedule occurred in the winter of 2017. After the change, the claimant acquiesced by working those hours for almost a year. He accepted those hours from December 2017, to November 2018. There was no change in his working hours in November 2018, at the time of his resignation.

When an employee quits work because he is dissatisfied with his hours, his leaving is without good cause attributable to the employer. The claimant left work because he did not want to work the Sundays and holiday rotation. His leaving was without good cause attributable to the

employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's December 20, 2018, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs