

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DONA J HILDRETH**  
Claimant

**APPEAL NO. 12A-UI-13564-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OPTIMAE LIFESERVICES INC**  
**OPTIMAE LIFESERVICES INC**  
Employer

**OC: 10/14/12**  
**Claimant: Appellant (2)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Dona Hildreth filed a timely appeal from the November 5, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 14, 2012. Claimant participated and presented additional testimony through Mick Bowers. Barb Grauer represented the employer and presented additional testimony through Cokie Ikerd. Exhibits One through Five, A and B were received into evidence.

**ISSUE:**

Whether the claimant's voluntary quit was for good cause attributable to the employer. The administrative law judge concludes the claimant quit in response to significant changes in the conditions of employment, as well as in response to intolerable and detrimental working conditions. The quit was for good cause attributable to the employer, and that the claimant is eligible for unemployment insurance benefits provided she meets all other eligibility requirements.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Dona Hildreth was employed by Optimae Lifeservices, Inc., as a full-time service coordinator from May 2011 until October 11, 2012, when she voluntarily quit. Ms. Hildreth had recently learned that the employer was going to implement a five percent across the board wage cut. Ms. Hildreth's final wage was \$15.00 per hour and the wage cut would reduce her to \$14.25 per hour. The annualized reduction in pay would be \$1,560.00. On October 3, 2012, Ms. Hildreth submitted her written resignation to Barb Grauer, Program Director. Ms. Grauer was Ms. Hildreth's immediate supervisor during the last few months of the employment. At the time Ms. Hildreth submitted her resignation to Ms. Grauer, Ms. Grauer told Ms. Hildreth that the resignation came at a good time in light of the pending wage cut and budget issues.

In making her decision to leave the employment, Ms. Hildreth considered the employer's requirement that she work hours or above her 40-hour workweek without overtime compensation in violation of the employer's own written policy. Ms. Grauer had instead directed

Ms. Hildreth to take time off at other points during the week to make up for the additional hours worked. Due to the employer being short staffed, it was not possible for Ms. Hildreth to take other time off to make up for the excess hours she had worked. This was an ongoing situation and the employer was aware of the situation.

In making the decision to end her employment, Ms. Hildreth also considered what she believed to be the employer actively undermining her ability to perform her work duties. In the early September, Ms. Hildreth noticed that a particular client file had gone missing. Ms. Hildreth subsequently learned that the file was in Ms. Grauer's office. Ms. Grauer had previously directed Ms. Hildreth not to have anything further to do with the court file.

Ms. Hildreth had received a written reprimand a month before she submitted her written resignation. The reprimand was based on her purported demeanor in the workplace when Ms. Grauer was away.

### **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).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

When an employee quits in response to a reprimand, the quit is presumed to be without good cause attributable to the employer. See Iowa Admin. Code rule 871 IAC 24.25(28).

The weight of the evidence establishes a voluntary quit that was prompted in part by a substantial change in the conditions of the employment. That substantial change was the five percent reduction in pay that the employer announced on the day that Ms. Hildreth submitted her resignation. The reduction in pay, \$1,560.00 annually, had a detrimental impact on Ms. Hildreth. The weight of the evidence also establishes that the employer expected Ms. Hildreth to perform overtime work without the overtime compensation called for under the employer's own written policy. That situation created a working condition that was both intolerable and detrimental and that would have prompted a reasonable person to leave the employment. The evidence fails to establish that the quit was prompted by the reprimand that had been issued a month earlier. The evidence fails to establish that the employer was actively undermining Ms. Hildreth's employment in connection with the client file that Ms. Hildreth could not find but was later located in Ms. Grauer's office.

Based on the changes in the contract of hire and the intolerable and detrimental working conditions, the administrative law judge concludes that Ms. Hildreth voluntarily quit the employment for good cause attributable to the employer. Accordingly, Ms. Hildreth is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged.

**DECISION:**

The Agency representative's November 5, 2012, reference 01, decision is reversed. 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/css