

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN GRAHAM

Claimant

APPEAL NO: 12A-UI-04030-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLEN MEMORIAL HOSPITAL

Employer

OC: 03/11/12

Claimant: Respondent (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Allen Memorial Hospital (employer) appealed an unemployment insurance decision dated April 6, 2012, reference 01, which held that Steven Graham (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 3, 2012. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Steve Sesterhenn, vice-president of human resources. The separation issues were inadvertently left off the hearing notice. Whether the claimant was discharged for misconduct and whether he voluntarily left for good cause attributable to the employer should have been listed on the hearing notice. The employer waived its right to a formal notice of these issues so they could be addressed in the hearing today. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

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 employed as a part-time valet from January 1, 2009 through February 29, 2012. He voluntarily quit due to a change in the contract of hire. The employer merged its valet and transporter departments, so the claimant's job was going to change and his hours were going to change. His job duties only minimally changed in that he was now going to transport patients within the hospital in addition to transporting them from their cars to where they needed to go in the hospital.

The claimant's schedule was going to change significantly even though he would still work 40 hours every two weeks. He had been working five half-days with no weekends or holidays. The claimant's schedule was going to change to three full days one week and two full days the next with the possibility of working weekends and holidays.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits.

Iowa Code § 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.

The claimant quit his employment on February 29, 2012 due to a change in the contract of hire. A "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). While the claimant was still going to work 40 hours every two weeks, he was now going to work full days instead of half days. This is considered to be a substantial change in the claimant's contract of hire. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Id.* at 702. Good cause may be attributable to "the employment itself" rather than the employer personally. *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956). The claimant's separation from his employment was with good cause attributable to the employer and benefits are therefore allowed.

DECISION:

The unemployment insurance decision dated April 6, 2012, reference 01 is affirmed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw