

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HUGHEY, WALTER, W
Claimant

APPEAL NO. 10A-UI-12355-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEATON INC
Employer

**OC: 07/25/10
Claimant: Respondent (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 24, 2010, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on November 16, 2010. Claimant participated. Kathy Frerichs represented the employer. Exhibit One was received into evidence.

ISSUES:

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

Whether the quit was from part-time employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time shift manager from December 2008 until July 21, 2010, when he voluntarily quit in response to a demotion imposed on July 19, 2010 in connection with a reprimand issued that date. The reprimand was issued after a manager overheard the claimant engage in inappropriate discussion with other staff, during which discussion the claimant made inappropriate and derogatory remarks about the owner and one or more members of management. While the claimant had been hired as a shift manager, the employer had ceased providing shift manager training to the claimant in August 2009. Though the claimant's management training became stalled as a result of the claimant's failure to demonstrate necessary performance, the employer continued to allow the claimant to act as the shift manager in all respects, except employer did not issue the claimant the security code he would need to open or shut the building. Because the claimant was consistently assigned to work in the middle of the day, the claimant did not need the security code to perform his shift manager duties. At the time the employer imposed the demotion from shift manager to crewmember, the employer notified the claimant he would need to start appearing for work in the crewmember attire. The claimant had not previously worn such attire. The claimant's wage was unchanged from the beginning to the end of the employment. For most of the employment and from April 2010 onwards, the claimant's employment was part time.

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.

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).

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).

When a worker voluntarily quits in response to a reprimand, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(28).

If the claimant's quit had been prompted by an ordinary reprimand, the claimant's quit would not be for good cause attributable to the employer. But the weight of the evidence indicates that the reprimand issued on July 19, 2010 was not her regular reprimand. It was indeed a demotion

from shift manager to crewmember. This constituted a significant change in the conditions of employment and made the voluntary quit for good cause attributable to the employer. The evidence otherwise fails to establish intolerable or detrimental working conditions.

The claimant voluntarily quit the employment for good cause attributable to the employer. Accordingly, the claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

DECISION:

The Agency representative's August 24, 2010, reference 01, decision is affirmed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided he 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/css