

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ECTOR M GARCIA
Claimant

APPEAL NO. 09A-UI-18466-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JELD-WEN INC
Employer

OC: 11/22/09
Claimant: Appellant (2)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Ector Garcia filed a timely appeal from the December 11, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was scheduled for January 21, 2010. Mr. Garcia provided a telephone number for the hearing, but was not available at that number at the scheduled time of the hearing. At the scheduled time of the hearing, the employer's representative, Amelia Gallagher of Talx, advised the administrative law judge that the employer was waiving its participation in the hearing. The administrative law judge took official notice of the Agency's administrative file documents submitted for or generated in connection with the December 10, 2009 fact-finding interview.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ector Garcia was employed by Jeld-Wen, Inc., as a full-time line production worker from September 7, 2009 until November 19, 2009, when he voluntarily quit in response to a reduction in work hours. Until November, Mr. Garcia had received full-time hours and overtime hours. In November, the employer cut Mr. Garcia's hours to 20 per week. Mr. Garcia elected to leave the employer, rather than continue in the employment under the changed conditions.

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 available evidence indicates that Mr. Garcia voluntarily quit the employment in response to significant changes in the conditions of his employment. The changes included a dramatic reduction in his work hours and a corresponding loss in pay. The available evidence indicates that Mr. Garcia voluntarily quit the employment for good cause attributable to the employer. Accordingly, Mr. Garcia is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Garcia.

DECISION:

The Agency representative's December 11, 2009, reference 01, decision is reversed. 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/pjs