

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICKY R TRAVIS**  
Claimant

**APPEAL NO. 11A-UI-07125-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WALNUT COMMUNITY SCHOOL DISTRICT**  
Employer

**OC: 04/24/11**  
**Claimant: Respondent (5)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the May 19, 2011, reference 01 decision that allowed benefits. After due notice was issued, a hearing was held on June 23, 2011. Claimant Vicky Travis participated. Jim Hamrick, Walnut Community School District superintendent, represented the employer and presented additional testimony through Karli North, business manager and board secretary.

**ISSUE:**

Whether Ms. Travis separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Vicky Travis was employed by the Walnut Community School District as the full-time business manager and board secretary from 2006 until April 25, 2010, when she resigned in lieu of acquiescence in changes in the conditions of her employment. Ms. Travis's immediate supervisor had initially been Superintendent Jeff Kruse, but it had been Superintendent Tim Peterson during the last two years of employment. Mr. Kruse and Mr. Peterson are no longer with the school district. At the end of this Travis's employment, the school board had decided to share the business manager aspect of Ms. Travis's position with another school district. Ms. Travis did not want to go along with that change and advised the board that they would need to fire her if they wished to change the duties associated with her position. The board suggested it would be better if Ms. Travis resigned. Ms. Travis agreed to do that and submitted her resignation, which was accepted by the board.

*After* Ms. Travis's departure in April 2010, the school district hired a new business manager and board secretary, Karli North, who started with the district on June 1, 2010. The board later hired a new district superintendent, Jim Hamrick, who started with the district on July 1, 2010. After Ms. North commenced her employment, she became aware of multiple bookkeeping, agency reporting, and financial irregularities, which she and others attributed to Ms. Travis.

Mr. Hammrick reported the district's concerns to law enforcement. Ms. Travis was not charged with any indictable offenses and did not admit to any indictable offenses.

### **REASONING AND CONCLUSIONS OF LAW:**

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

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.

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 weight of the evidence in the record establishes that Ms. Travis voluntarily quit rather than acquiesce in significant changes in the conditions of her employment. The significant changes included a restructuring of her position so that the business manager aspect could be shared with a different school district. Ms. Travis promptly resigned rather than acquiescing in these changes. The evidence does not establish a quit in lieu of discharge. Ms. Travis indicated in her testimony that she was the party who first mentioned discharging her from the employment, that the board rejected this idea, and that Ms. Travis resigned employment rather than accept the proposed change in her duties. Ms. Travis's voluntary quit was for good cause attributable to

the employer. Accordingly, Ms. Travis is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Travis.

When it is in a party's power to produce more direct and satisfactory evidence than is actually produced, it may fairly be inferred that the more direct evidence will expose deficiencies in that party's case. See Crosser v. Iowa Dept. of Public Safety, 240 N.W.2d 682 (Iowa 1976).

The employer failed to present any testimony from persons with firsthand personal knowledge concerning the events leading to Ms. Travis' separation from employment or the separation itself. There were apparently multiple school board members who participated in these events and who still serve on the school board. Any one of these persons could have been made available to testify, but were not. The employer has presented insufficient evidence, and insufficiently direct and satisfactory evidence, to establish that Ms. Travis's separation from employment had anything to do with misconduct. Concerns that arose a month or more after Ms. Travis's departure from the employment and belated allegations concerning Ms. Travis's work performance or integrity do not tell us what was happening at the time of the separation or what the school board was considering at the time of the separation. The only testimony from a person with firsthand personal knowledge of the relevant matters came from Ms. Travis. The employer failed to present sufficient evidence to rebut that testimony.

**DECISION:**

The Agency representative's May 19, 2011, reference 01, decision is modified as follows. The claimant 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/kjw