

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**AARON D KOLANDER**  
Claimant

**J & A PRINTING INC**  
Employer

**APPEAL NO. 14A-UI-04766-SW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/06/14**  
**Claimant: Appellant (2)**

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Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated April 30, 2014, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. An in-person hearing was held on August 12, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Dina Smith participated in the hearing on behalf of the employer with witnesses, LuAnn Lowe and Scott Cadwallander. Exhibits One and Two were admitted into evidence at the hearing.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant worked for the employer from January 3, 2011, to April 4, 2014. He started working as an operator in the mail shop at a rate of pay of \$10.50 per hour and worked in a couple of different jobs there.

The claimant applied for and was hired as a customer service representative (CSR) in the spring of 2013. He received a raise for taking the job. As of April 2014, his rate of pay as a CSR was \$15.50 per hour. The claimant applied for the job for the raise, regular hours, and less strenuous physical work. He occasionally helped in the mail shop when there was a need and he was asked.

There were eight CSRs employed as of April 2014. Due to workload and staffing issues, the employer decided to eliminate the claimant's CSR position. Because of the claimant's prior experience and skills as an operator in the mail shop, the employer decided to move the claimant to an operator's position in the mail shop. He would have received \$15.50 per hour, the same pay he was receiving as a CSR if he would have accepted the change.

The claimant's CSR job involved working in an office setting dealing with customer issues, typical on the phone. His work hours were from 7:30 a.m. to 4 p.m. The operator's position involved more strenuous physical work and heavy lifting and was located on the production

floor. The claimant knew from his prior work as an operator that operators were often expected to come into work at 5 a.m. instead of their normal start time of 7 a.m.

The claimant informed the employer that he would only accept the change in his position if he received a raise to compensate him changing jobs. He offered to work as a lead worker with additional responsibilities. When the employer would not accept these terms, the claimant stated that he would not work in the operator's job.

The claimant did not accept the operator's job without a raise because the job involved more strenuous physical work and heavy lifting in a different work environment rather than office work and often involved substantially earlier hours that required in his CSR job.

The claimant filed claims for the weeks ending April 12 and 19, 2014, and stopped filing when he found another job.

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

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. On the other hand, a claimant whose separation is a layoff is qualified to receive benefits. The rules define a layoff as "a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations." 871 IAC 24.1(113)a.

Although the claimant argued he was laid off due to the elimination of his CSR position, since the employer had continuing work available for the claimant in a different job, the separation is deemed a voluntary quit. The crux of this case then is whether the claimant had good cause attributable to the employer to leave employment.

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.

While the rule discusses a "contract of hire," it is clear that it's the current terms of employment that must be compared in deciding if there was a substantial change. Otherwise, an employer could substantially cut an employee's wages back to what the employee was hired at or transfer a manager who had worked his or her way up through the business ranks to an entry-level position and argue that the cut or position change was not a change in the contract of hire. The position offered the claimant was a substantial change in the type of work to be performed and

the expected hours of work. Wages are not the only consideration in deciding if there has been a change in the terms of employment.

In *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700, 702 (Iowa 1988) the Iowa Supreme Court, in discussing a substantial change hours, stated:

It is not necessary to show that the employer acted negligently or in bad faith to show that an employee left with good cause attributable to the employer. . . . [G]ood cause attributable to the employer can exist even though the employer be free from all negligence or wrongdoing in connection therewith.

Thus, although the employer may not have been at fault for the change in the claimant's job since it was due to economic factors, the evidence establishes the claimant quit employment with good cause attributable to the employer. Finally, the fact that the claimant was willing to accept the job for additional compensation does not change the outcome here.

**DECISION:**

The unemployment insurance decision dated April 30, 2014, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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