

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LAURA J CONWAY
Claimant

**BLACKBIRD BEND CORPORATION
CASINOMAHA**
Employer

APPEAL NO. 21A-UI-17198-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/09/21
Claimant: Appellant (2)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Laura Conway, filed a timely appeal from the July 27, 2021, reference 01, decision that disqualified her for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily quit on May 6, 2021 without good cause attributable to the employer. After due notice was issued, a hearing was held on September 28, 2021. Claimant participated. Salena Grant represented the employer.

ISSUE:

Whether the claimant'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: The claimant was employed by Blackbird Bend Corporation/Casinomaha from January 2018 until May 6, 2021, when she voluntarily quit. From the start of the employment until January 2021, the claimant worked as a full-time security guard. In January 2021, the claimant was prompted to Day Shift Security Supervisor. The claimant's wage as a security guard was \$11.38. The claimant's wage as Day Shift Security Supervisor was \$13.25. As a security officer, the claimant was required to wear a uniform shirt. As Day Shift Security Supervisor, the claimant was allowed to wear casual attire and not required to wear the uniform shirt. The claimant's promotion coincided with her predecessor's involuntary separation from employer. That predecessor was Elissa Payer.

When the claimant reported for work on May 6, 2021, she learned that Ms. Payer had been reinstated as Day Shift Security Supervisor and that the claimant was being demoted back to her security officer position, which would bring the corresponding reduction in pay. The claimant had reported to work in the casual attire she would wear as Day Shift Security Supervisor. The claimant learned of the sudden change in the conditions of her employment from Ms. Payer, as part of an unpleasant exchange wherein Ms. Payer repeatedly barked at the claimant to go get a uniform shirt. The claimant was upset by the barked directives. Rather than complain to Ms. Payer's superior or to a human resources representative pursuant to the

employer's harassment policy, the claimant immediately returned her badge, her racing and gaming license, and her communication radio, and walked off the job. The claimant did not return to the employment. However, at some later point in May 2021, the claimant contacted the human resource manager, who deemed the claimant's concerns to be raised too late to be addressed as part of the employer's appeal process. The employer required that such concerns be raised within five days of the incident that prompted the concern.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 Iowa Admin. Code r. 871-24.26(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).

Iowa Admin. Code r. 871-24.26(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 evidence in the record establishes a May 6, 2021 voluntary quit for good cause attributable to the employer. On the one hand, Ms. Payer's rudeness on May 6, 2020 did not rise to the level of intolerable and detrimental working conditions that would have prompted a reasonable person to leave the employment. A reasonable person would have complained to Ms. Payer's supervisor or to a human resources supervisor and would have felt compelled, based strictly on the rudeness and barked directive, to quit the employment. On the other hand, the demotion and the reduction in pay each was a substantial change in the conditions of the employment. The claimant worked as the Day Shift Security Supervisor for four months before she was abruptly demoted. The status and pay that went with the Day Shift Security Supervisor position had become established conditions of the employment. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The July 27, 2021, reference 01, decision is reversed. The claimant voluntarily quit the employment on May 6, 2021 with 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.



James E. Timberland
Administrative Law Judge

September 29, 2021
Decision Dated and Mailed

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