IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

QUINN S WOOD Claimant **HY-VEE INC** Employer	**APPEAL 16A-UI-13138-LJ** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 07/03/16** **Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(1) – Quit Due to Change in Contract of Hire
Iowa Admin. Code r. 871-24.25(21) – Quit Due to Dissatisfaction with Work Environment

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 8, 2016 (reference 05) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit working because he disliked his work environment. The parties were properly notified of the hearing. An in-person hearing was held in Mason City, Iowa, on June 15, 2017. The claimant, Quinn S. Wood, participated. The employer, Hy-Vee, Inc., participated through Amber Knabe, Human Resource Manager; and Bruce Burgess of Corporate Cost Control, Inc., represented the employer. Claimant's Exhibits A and B were received and admitted into the record.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time, most recently as a cashier, from the end of August 16, 2016 until November 17, 2016, when he resigned. Claimant was initially hired for a cashier position. On September 3, 2016, claimant applied for an Assistant Manager position with the store. Sometime in early September, Knabe and claimant had a conversation about claimant's interest in the management position. Knabe testified that she explained to claimant during this meeting that the employer would want him to have more experience in various areas of the store before he was moved into a management position, and claimant agreed that this made sense. Claimant denies that Knabe or anyone else informed him that he would be moved to different departments so he could learn more about the store and potentially obtain a management position.

Over the course of claimant's employment, he performed work as a grocery checker, a grocery stocker, an employee in the Dairy Department, and an employee in the Produce Department. Claimant testified that he learned from a part-time employee in the produce department that she

was transferring to the bakery department and he would be replacing her in produce. Claimant also spoke to the Assistant Produce Manager, who informed him that he was being permanently transferred to the Produce Department. Knabe testified that claimant's duties in any of the various departments would not have differed substantially from his duties as a cashier, as all positions involve stocking, some standing, and moving around. On November 19, 2016, claimant submitted a resignation email stating he was quitting "due to the substantial change in my routine caused by being permanently transferred between departments without my request." Claimant believed it would not be effective to speak with the employer about his desire to work solely as a cashier, based on a past experience with a prior employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(1) provides:

> The following are reasons for a claimant leaving employment with good cause attributable to the employer:
>
> 24.26(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.

In general, a substantial pay reduction of 25 to 35 percent or a similar reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. The Iowa Supreme Court has determined that notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.,* 710 N.W.2d 1 (Iowa 2005).

Here, the parties agree that claimant expressed interest in an Assistant Manager position at the store. The employer began moving claimant through its various departments to learn about how these departments worked and to help educate him about the store. Claimant did not submit any evidence showing his hourly wage decreased, his hours per week substantially decreased,

or his work duties were drastically modified. Instead, it appears claimant was being rotated through various departments with the goal of him securing a promotion. Claimant did not present any evidence that his work environment was unsafe, illegal, or otherwise intolerable. Claimant has not established that he experienced a change in his contract of hire.

Iowa Admin. Code r. 871-24.25 provides:

> 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:
>
> (21) The claimant left because of dissatisfaction with the work environment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The average person in claimant's situation would not have felt similarly compelled to quit his employment without first securing another job. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Claimant delivered a resignation letter to the employer and he ceased reporting to work. Claimant's decision to end his employment was without good cause attributable to the employer. Benefits are withheld.

DECISION:

The December 8, 2016 (reference 05) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Elizabeth A. Johnson
Administrative Law Judge

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Decision Dated and Mailed

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