

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TOSHA A LONGHURST
Claimant

APPEAL NO. 12A-EUCU-00204-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 02-19-2012
Claimant: Appellant (2)

871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 30, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 5, 2012. The claimant did participate. The employer did participate through Sarah Fieldler, Claims Administrator.

ISSUE:

Did the claimant voluntary quit her employment with 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 last assigned to work at Hon Industries as a fork lift operator full time beginning June 12, 2012 through June 13, 2012 when she voluntary quit due to the employer's misrepresentation of the hours of work. When Melissa from Team Staffing offered the claimant the position she was told it would be first shift for three or four months then would possibly move to second shift. The claimant accepted thinking she would have at least three months to work out childcare issues. On her first day on the job she was told by Nick that the job was second shift, not first shift. When the claimant confronted Melissa she was told that the employer would try to work something out. When the claimant returned to work on the second day she was again told by a Hon employee that the job was second shift. She quit because the employer had told her she would have at least three months on first shift. The replacement employee sent by the employer was moved to second shift three weeks after beginning the assignment. The employer misrepresented to the claimant the shift she would be responsible for working and the claimant quit because of that misrepresentation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment with good cause attributable to the employer.

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.

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. EAB*, 433 N.W.2d 700 (Iowa 1988). The Administrative Law Judge is persuaded that the claimant was told by Melissa that she would have at least three or four months on first shift. That was not true as even the subsequent employee was not allowed to work for one month on the first shift. The employer misrepresented the hours of work to the claimant when offering her the position giving the claimant good cause attributable to the employer for quitting the assignment. The misrepresentation of the job as a first shift when it was really a second shift position is considered substantial. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The July 30, 2012 (reference 01) decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs