

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ROBIN K MURPHY**  
Claimant

**VERIDIAN CCO**  
Employer

**APPEAL NO. 20A-UI-03340-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5-1 – Voluntary Quit  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Federal Law PL 116-136 Sec. 2104 – Recovery of Overpayment of Federal Benefit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated April 13, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 13, 2020. Claimant participated. Employer failed to respond to the hearing notice and did not participate. Claimant's Exhibit A was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on or around February 1, 2020. Claimant voluntarily quit on that date as employer had repeatedly changed the number of hours that claimant had worked on a two-week period, and had shorted claimant overtime pay even after claimant complained about the shorting of hours and overtime.

Claimant worked as a home health caregiver for employer. Claimant would work up to one hundred hours in the first week of a pay period and then have the second week off. At the time of hire, claimant received documentation that she was to be paid at a time and a half rate for all hours worked over 40 per week. Claimant stated that she often was not given any overtime rate for her hours worked. Additionally, claimant would record a certain number of hours worked at \$10 / hr., but not be paid for the total hours worked. Claimant complained to employer on three different occasions that she wasn't getting the pay she deserved, but employer did not properly adjust her pay. This prompted claimant's quit as it happened most recently in January, 2020.

## 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.

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:

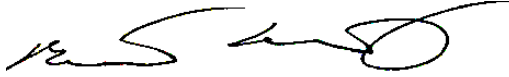
(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes 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.

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she was not being paid at the rate she'd been hired to work for.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* Here, employer did not pay claimant for all of the hours she'd worked nor at the agreed- to overtime rates. This constitutes good cause to quit.

**DECISION:**

The decision of the representative dated April 13, 2020, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.



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Blair A. Bennett  
Administrative Law Judge

May 29, 2020  
Decision Dated and Mailed

bab/scn