

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ELAINE M NICOL**  
Claimant

**APPEAL NO. 14A-UI-07400-G**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMMUNITY CARE INC**  
Employer

**OC: 06/01/14**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871-24.26(1) – Voluntary Quitting – Change in Contract of Hire

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated July 8, 2014 (reference 01) which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 7, 2014 in Davenport, Iowa. Claimant participated in person. Employer did not appear at the hearing and did not participate.

**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 June 3, 2014. Employer was in the process of closing the business. Claimant was told that another company that was somewhat similar was going to hire current employees if they applied for work.

Claimant had been working as a supervisor of home care employees. She began requesting what would happen to her staff and her employment once employer was no longer operating. The new employer was different in many ways and each week claimant was notified of how things would be done differently under the new employer. Claimant began seeking other employment. She also applied for work with the new business, but she was not given an offer.

Claimant's authority began to vanish as a supervisor as employer's business was closing down. Claimant was not able to keep the staff she supervised apprised of their working conditions or hours. She had been in a position of authority and trust, but that authority had eroded to the point where she was not able to function as a supervisor. Claimant decided she was not able to continue working with her status of supervisor being diminished.

## 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 § 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:

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. 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. Our supreme court recently concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), 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).

There was no disqualifying misconduct basis for the effective demotion but it was made as a business reorganization decision, and while there was no corresponding reduction in pay or hours as a result of the demotion, it did result in a loss of status. Her loss of supervisory, management, and administrative authority and duties is considered a substantial change in contract of hire and the separation was with good cause attributable to the employer. Benefits are allowed.

**DECISION:**

The July 8, 2014 (reference 01) decision is reversed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

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