

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KELLY SALUCIO
Claimant

EVERGREEN MANAGEMENT CO
Employer

APPEAL NO. 14A-UI-11312-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/28/14
Claimant: Respondent (5)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Evergreen Management Company (employer) appealed an unemployment insurance decision dated October 21, 2014, (reference 01), which held that Kelly Salucio (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 20, 2014. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through Ann Morgan, General Manager. Employer's Exhibit One was admitted into evidence.

ISSUES:

The issues are whether the claimant is disqualified for benefits, whether she was overpaid unemployment insurance benefits, whether she is responsible for repaying the overpayment and whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a full-time front desk associate on April 29, 2014, and was promoted to the Manager On-Duty (MOD) on June 27, 2014. She was notified via email on September 30, 2014, that her position was eliminated since a new general manager was hired. The claimant could return to her previous front desk associate position at a reduced rate of pay. The claimant voluntarily quit effective October 3, 2014, due to a change in the contract of hire.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by calling the hotel and stating she quit.

The claimant quit on October 3, 2014, due to a change in the contract of hire. The law presumes a claimant has left employment with good cause when she quits because of a change in the contract of hire. 871 IAC 24.26(1). A "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.*

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The voluntary quit was with good cause attributable to the employer and benefits are allowed.

DECISION:

The unemployment insurance decision dated October 21, 2014, (reference 01), is modified with no effect. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs