

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL R AMES
Claimant

APPEAL NO. 11A-UI-16584-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EATON CORPORATION
Employer

OC: 12/04/11
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed an appeal from the December 23, 2011 (reference 01) decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call on January 26, 2012. Claimant participated. Employer participated through human resources manager Michael Hill and senior human resources generalist Cathy Cullinan. Employer's Exhibit One was admitted to the record.

ISSUE:

The issue is whether claimant voluntarily left the 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: Claimant was employed full-time as a machine operator from August 29, 2011 and was separated from employment on December 2, 2011. He was hired to work third shift from 11 p.m. to 7:30 a.m. and agreed to work seven days per week (56 hours). He specified the shift in his interview and said he would not take the job otherwise since he already had a job. He did not know he would be expected to work 12 hour days (84 hours) and varying shifts after the training period and did not agree to do so. The person who interviewed claimant, Dean Avery, noted that claimant preferred the third shift over the second shift and that they discussed hours but did not make specific notes. His supervisor did not know how long the 12-hour shifts would last and did not pass along the question or concern to Hill. The employer kept him in training mode on first shift longer than expected because he was struggling with the job. During the separation interview Hill suggested to claimant that there was nothing he could do to help because the job was not a good fit for him. Claimant agreed he could not keep up with the number of hours required.

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.

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). A claimant is not generally required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant's testimony is credible that although he knew he would be working seven days per week, he was not told he would be expected to work 12-hour days since the employer's interviewer made no specific notes to that effect. Although this was not a decrease in pay like *Dehmel*, but an increase in the number of hours by one-third for an indeterminate period of time, and he did not have the advice of a medical professional to quit the employment because he could not keep up the pace, a reasonable lay person or employer would know that working 12 hours per day for seven days per week without expectation of relief is very likely to create an intolerable strain on even an otherwise healthy worker's physical and mental health. Thus, the claimant has established good cause reasons for leaving the employment. Benefits are allowed.

DECISION:

The December 23, 2011 (reference 01) decision is affirmed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs