

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DEBRA L KUEHL
Claimant

PARENT BG OPCO TRS LLC
Employer

APPEAL NO. 20A-UI-01909-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/09/20
Claimant: Appellant (2)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 24, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 18, 2020. Claimant participated. Employer participated by Sherry Meyer. Employer failed to respond to the hearing notice 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 January 8, 2020. Claimant voluntarily quit on that day after she became frustrated with the fact that employer did not have her do the job she was hired, had her work hours she wasn't hired to work, reduced her hours from full to part-time, and was asked to work without proper sanitary protections and without a charge nurse at the facility.

Claimant was hired to work as a full time medication aide, but within three weeks of her hire she was switched to working as a residential care provider. Claimant was not conferred with prior to this switch, nor was she conferred with regarding her switch from full time to part time employee.

As a part of claimant's switch of positions, she was asked to change large ill people who defecate on themselves every day without the aid of safety harness or sanitary protections.

Claimant was hired to work from 2 p.m. to 10 p.m. Unknown to claimant, she was also placed on call, and asked to work at 2 a.m. when called into work because others had called off their shifts.

Claimant complained about all of these issues, and was promised for many months to be switched to a medication aide job, but it never happened.

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:

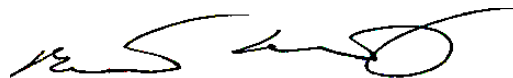
Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(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 hired to do one job, but was quickly switched to do a job she wasn't hired to do, work part time rather than full time hours, and work on call when she wasn't alerted to that possibility at the time of hire. As employer made substantial changes to the contract of hire entered into, claimant's quit was for good cause attributable to employer.

DECISION:

The decision of the representative dated February 24, 2020, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

March 30, 2020
Decision Dated and Mailed

bab/scn