

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KURTIS R FOUNTAIN
Claimant

APPEAL NO. 11A-UI-02778-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VETTER EQUIPMENT CO INC
Employer

OC: 01/09/11
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 3, 2011, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on March 30, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. David Madsen participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment with good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer from 2005 to January 7, 2011. He started working as a mechanic for the farm implement part of the business and later worked as an auto parts sales person. He worked about 45 hours per week, and when his employment ended he was paid \$12.50 per hour plus overtime for his hours over 40.

When the claimant returned from vacation at the beginning of January 2011, the store manager told him that his hours were going to be cut due to a slow down of business. He was going to be cut one day of work each week, so that his hours were reduced to 38 hours per week. When overtime pay is considered, this would amount to a pay cut of about 20 percent.

After the claimant was informed about the cut in hours and pay, he informed his manager that he was putting in his two-week notice of quitting on January 7, 2011. The manager told him that he did not need to work the two weeks, but would be paid for the weeks.

The claimant filed a new claim for unemployment insurance benefits effective January 9, 2011. He has not filed any weekly claims for benefits.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

The employer basically argues that the pay cut was not substantial and the quit was not for good cause attributable to the employer because the reasons for the change were not the fault of the employer. The employer also points to the at will nature of the employment. The fact that an employee is at will (as the majority of workers in Iowa are) has no bearing on an unemployment insurance case. For example, the construction company who lays off its "at will" employees when work slows down cannot defend itself by saying the workers were at will and never guaranteed year-round work.

In *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988), the Iowa Supreme Court ruled that a 25 percent to 35 percent reduction in hours was, as a matter of law, a substantial change in the contract of hire. The Court stated that: "It is not necessary to show that the employer acted negligently or in bad faith to show that an employee left with good cause attributable to the employer. . . . [G]ood cause attributable to the employer can exist even though the employer be free from all negligence or wrongdoing in connection therewith."

Therefore, the fact that the pay reduction was due to economic circumstances, under the reasoning of *Dehmel*, is immaterial in deciding whether the claimant left employment with or without good cause attributable to the employer.

The next issue is whether a 20 percent pay reduction is a substantial change in the contract of hire. The Court in *Dehmel* concluded a 25 percent to 35 percent pay reduction was substantial as a matter of law, citing cases from other jurisdictions that had held reductions ranging from 19 percent to 26 percent were substantial. *Id.* at 703. Based on the reasoning in *Dehmel*, a 20 percent reduction in pay is also substantial, and the claimant had good cause attributable to the employer to leave employment.

If the claimant files weekly claims for benefits, he must report the pay he earned during the week of January 9 and 16, which would make him ineligible for benefits for those two weeks.

DECISION:

The unemployment insurance decision dated March 3, 2011, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs