

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROOSEVELT LEE
Claimant

REMEDY INTELLIGENT STAFFING INC
Employer

APPEAL 20A-UI-08833-HP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1)j – Request for Another Job Assignment

STATEMENT OF THE CASE:

Claimant Roosevelt Lee filed an appeal from a July 17, 2020 (reference 01) unemployment insurance decision that denied benefits. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for September 8, 2020. Lee appeared and testified. No one appeared on behalf of the employer, Remedy Intelligent Staffing Inc. ("Remedy"). I took administrative notice of the claimant's unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUES:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?
Did the claimant make a timely request for another job assignment?

FINDINGS OF FACT:

In late October 2019, Lee commenced full-time employment with Remedy as an assistant supervisor/material handler. Remedy placed Lee at Oral B in Iowa City. Lee worked the third shift, from 11:00 p.m. until 7:00 a.m.

Lee rode the bus to work. At the time Covid-19 hit, the city disconnected bus service after 7:00 p.m. or 8:00 p.m. Lee did not have transportation to work. Remedy did not provide transportation to Lee. Oral B had also discontinued work on the third shift Lee worked for two weeks. Lee contacted Remedy and told the receptionist about his transportation problem and the lack of work at Oral B. Remedy did not offer Lee another assignment. Lee denied he was a no call, no show for three days. He reported Remedy told him there was no other assignment available to him.

Lee testified he was scared to work at Oral B given the pandemic. He worked shoulder to shoulder with his coworkers. Remedy provided Lee with gloves and a mask to wear at work, but several of his coworkers became ill with what he believed to be Covid-19.

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:If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

871 Iowa Administrative Code 24.25(1) and (21) provide:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. . . .The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(1) The claimant’s lack of transportation to the work site unless the employer had agreed to furnish transportation.

24.25(21) The claimant left because of dissatisfaction with the work environment.

871 Iowa Administrative Code 24.26(1) and (4) also provide:

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:

24.26(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.

24.26(4) The claimant left due to intolerable or detrimental working conditions.

“Change in the contract of hire” means a substantial change in the terms or conditions of employment. See *Wiese v. Iowa Dept. of Job Serv.*, 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. Emp’t Appeal Bd.*, 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.* An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See *Olson v. Emp’t Appeal Bd.*, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The evidence supports Remedy did not provide Lee with full-time hours as promised. Oral B closed Lee's shift for two weeks. He contacted Remedy and told Remedy bus service was not being offered by the city and that no work was scheduled for him at Oral B. Remedy did not offer Lee transportation assistance. Remedy did not offer Lee a different position. Lee reported no other position was available. I find Remedy changed the terms of Lee's contract of hire by not offering him full-time work and that his working conditions were intolerable. I do not find Lee was a no call, no show for three days. Benefits are allowed.

DECISION:

The July 17, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is reversed in favor of the claimant/appellant. Benefits are allowed, provided the claimant is otherwise eligible.



Heather L. Palmer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

September 9, 2020
Decision Dated and Mailed

hlp/mh