

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NINA A OLSON
Claimant

APPEAL NO. 12A-UI-03763-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TENCO INDUSTRIES INC
Employer

OC: 03-18-12
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(1) – Voluntary Leaving - Change in Contract of Hire

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 9, 2012, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on April 26, 2012. The claimant did participate. The employer did participate through Joanie Lundy, human resources, and Rhonda Johnson, support services director.

ISSUE:

Did the claimant voluntary quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a residential instructor, full-time, beginning August 1, 2005, through February 22, 2012, when she voluntarily quit. The claimant was hired with the understanding that she would work long shifts on three days per week. From the time she began her employment until she quit, the claimant worked the same schedule. She worked Sunday, Monday, and Tuesday. She specifically took the job with this employer so that she could obtain insurance benefits and so that she could have Saturday off to work at her other job. For seven years, the claimant worked her set schedule until early February 2012, when the employer announced that her schedule would change. The claimant was no longer going to be scheduled for 40 hours per week over three days, but would instead have to work on five separate days, including Saturdays, and would only be scheduled to work up to 35 hours per week, which meant she would no longer be eligible to have health insurance. When the employer changed the claimant's hours of work so that she could no longer qualify for health insurance and would no longer be able to work her other job on Saturday, the claimant voluntarily quit.

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 section 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). The claimant's change of hours and days of work was substantial change in her terms of hire, as she would be required to work on Saturdays and would no longer qualify for health insurance benefits. Under such circumstances, the change in the terms of hire is considered substantial and is good cause attributable to the employer for the claimant's quitting. Thus, the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The April 9, 2012 (reference 01) decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw