**IOWA WORKFORCE DEVELOPMENT**
**UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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| **WILLIAM L FORD**<br>Claimant<br><br>**LINN STAR MAIL DELIVERY LLC**<br>Employer | **APPEAL 20A-UI-00975-DB-T**<br><br>**ADMINISTRATIVE LAW JUDGE DECISION**<br><br>**OC: 06/30/19**<br>**Claimant: Appellant (2)** |

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(1) – Voluntary Quitting – Change in Contract of Hire

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the January 30, 2020 (reference 03) unemployment insurance decision that held claimant was ineligible for unemployment insurance benefits due to a voluntary quitting of work. The parties were properly notified about the hearing. A telephone hearing was held on February 25, 2020. Claimant, William L. Ford, participated personally. Employer, Linn Star Mail Delivery LLC, participated through witness Eric Munson.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to 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 mail delivery driver. He began working for this employer on November 8, 2019. His last day physically worked on the job was December 24, 2019. He voluntarily quit on December 26, 2019. His direct supervisor was Rick Isard.

When the claimant was hired by Mr. Isard, he specifically told him that he could not work a split shift due to family issues. Mr. Isard told the claimant that he would start on a split shift but it would be temporary in order to get through the peak Christmas season. Mr. Isard told the claimant that he could move to a different (non-split) shift after Christmas. Claimant was also hired to work at $18.58 per hour. He was being paid for 8 ½ hours per day at that rate of pay. He also received an additional $5.11 per hour up to 40 hours per week which was allotted for health care and retirement.

Claimant began working a split shift on his first day. His hours were from 3:30 a.m. to 8:00 a.m. in the morning and then 3:00 p.m. to 7:00 p.m. in the afternoon. These were the hours needed in order to complete his route each day. He worked Monday through Saturday each week. Claimant would drive in the morning from Cedar Rapids, Iowa to Kalona, Iowa; then to Wellman, Iowa; and then to Keota, Iowa. He would then drive the same route in reverse order in the afternoon, starting in Keota, Iowa and ending in Cedar Rapids, Iowa.

Approximately the second week of December, 2019, claimant spoke to Mr. Isard about his route changing to a non-split shift after the Christmas holiday, as they had discussed when he was hired. Claimant was told that the only change that Mr. Isard could make would be to remove Saturday from his work week; however, claimant would still be working a split shift Monday through Friday each week.

Claimant also learned in December, 2019 that he was not going to continue being paid for 8 ½ hours per day at his hourly rate of pay. Claimant was supposed to only be paid 6 ½ hours per day for his route, even though it took him 8 ½ hours to complete the driving. The employer had been paying the claimant 8 ½ hours per day and did not notice this until several weeks into the claimant's employment. Claimant's gross weekly wages (excluding the $5.11 per hour stipend) would have been reduced from $947.58 (8.5 hours per day at $18.58 per hour for six days per week) to $724.62 (6.5 hours per day at $18.58 per hour for six days per week).

Upon learning that he was not going to be allowed to change to a non-split shift schedule after Christmas and that he would only be paid wages for 6 ½ hours per day instead of the 8 ½ hours of work he had been doing, the claimant decided to quit. He tendered his verbal resignation to Mr. Isard on December 26, 2019.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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.

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:
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> (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 claimant has the burden to prove that the voluntary quitting was with good cause attributable to the employer. Iowa Code § 96.6(2). The test is whether a reasonable person would have quit under the circumstances. *Aalbers v. Iowa Dept. of Job Service*, 431 N.W.2d 330 (Iowa 1988); *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993). "Change in the contract of hire" means a substantial change in the terms or conditions of employment. *Wiese v. Iowa Department of Job Service*, 389 N.W.2d. 676, 679 (Iowa 1986).

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. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.,* 710 N.W.2d 1 (Iowa 2005).

In this case, the claimant's gross weekly wages would have been reduced by approximately 23.5%, and he was not going to be allowed to change to a non-split shift schedule as promised when he was hired. These two changes, combined, establish that there was a substantial change in the contract of hire. Thus, the separation was with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The January 30, 2020 (reference 03) unemployment insurance decision is reversed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Dawn Boucher
Administrative Law Judge

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Decision Dated and Mailed

db/scn