

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA L LUADZERS
Claimant

APPEAL NO. 13A-UI-03023-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MURPHY OIL USA INC
Employer

OC: 02/03/13
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 4, 2013, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on April 10, 2013. Claimant Laura Luadzars participated. The employer provided a telephone number for the hearing, but the employer representative was not available at that number at the time set for the hearing. After the hearing record had closed and the claimant had been dismissed from the hearing, the employer representative, Daniel Furlong, contacted the administrative law judge. The employer did not provide good cause to reopen the hearing record.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Laura Luadzars was employed by Murphy Oil USA, Inc. from October 2012 until February 2, 2013, when she voluntarily quit in response to a halving of her work hours. Ms. Luadzars had worked 30 hours per week. In mid-January, Store Manager Dan Brown, notified Ms. Luadzars that he had been instructed by his superiors to hire another employee. Ms. Luadzars and another employee had recently been ill and this had left the employer short-staffed during their illness. Ms. Luadzars had been absent two days due to bronchitis. When Mr. Brown notified Ms. Luadzars that he had been instructed to hire another employee, he told Ms. Luadzars that her hours would be reduced to 15 per week. Ms. Luadzars lived 30 miles from the workplace. Ms. Luadzars told Mr. Brown that she could not afford to continue in the employment with the reduced hours in light of her substantial commute.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 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. Employment Appeal Board, 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. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The evidence in the record indicates that Ms. Luadzers voluntarily quit in response to a substantial change in the conditions of her employment. The substantial change was the halving of her work hours and the associated halving of her wages from the employment. As indicated in the Dehmel ruling referenced above, it is the impact of the change on the employee, not the employer's motivation for making the change, that the administrative law judge must consider. The impact of the halving of Ms. Luadzers' work hours and wages was substantial. Ms. Luadzers voluntarily quit the employment for good cause attributable to the employer. Accordingly, Ms. Luadzers is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The Agency representative's March 4, 2013, reference 01, decision is affirmed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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