

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDITH C NELSON
Claimant

APPEAL NO. 13A-UI-00307-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE GREEN THUMBERS INC
Employer

**OC: 12/09/12
Claimant: Respondent (1)**

871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The Green Thumbers (employer) appealed a representative's January 8, 2013 decision (reference 01) that concluded Judith Nelson (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 11, 2013. The claimant participated personally. The employer participated by Andy Kay, President, and Sue McGee-Kay, Vice President. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 4, 2010, as a full-time office administrator. The claimant signed for receipt of the employer's handbook on January 4, 2010.

Generally the employer was happy with the claimant's work until it hired a new office worker. The employer asked the claimant to train the new office worker to perform her work. The employer would become unhappy with the claimant and have conversations with her about her performance. The claimant would train the new worker but after a while the new worker would quit. After the new worker quit the employer would be happy with the claimant until another worker was hired.

On November 9, 2011, the employer issued the claimant a verbal warning regarding making mistakes. The employer notified the claimant that further infractions could result in termination from employment. On November 15, 2011, the employer talked to the claimant about her job responsibilities and how her job responsibilities would be switched with another worker. That worker left, the claimant took back the job responsibilities and the employer did not complain about mistakes for some time. Most of the claimant's mistakes were due to having too many people giving her divergent instructions.

The employer hired a new worker in March 2012. On August 29, 2012, the employer issued the claimant two written notices for yelling in front of the new worker and personal use of a cellular telephone. On November 26, 2012, the employer met with the claimant and told her that due to mistakes that effective immediately she would no longer be a salaried employee earning \$33,000.00 per year. She would be paid \$12.50 per hour at roughly 32 hours per week. This was a reduction of at least \$3,000.00 per year. The employer made the new co-worker the manager and the claimant would become the assistant.

On December 6, 2012, claimant gave the employer her resignation effective December 20, 2012. After submitting her resignation the president and vice president would not give her work instructions. Someone told the president that the claimant said bad things about him. The president saw the claimant on the telephone at work. The president terminated the claimant on December 10, 2012.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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.

An employee must give prior notice to the employer before quitting due to a change in the contract of hire. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant quit work because the employer changed her wages. She gave notice that she was quitting on December 6, 2012. The employer cut the notice short and terminated her early. The claimant is qualified to receive unemployment insurance benefits provided she is otherwise eligible.

DECISION:

The representative's January 8, 2013 decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css