

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW GRAY**  
Claimant

**APPEAL NO. 11O-UI-07579-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TARGET**  
Employer

**OC: 10/31/10**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Matthew Gray (claimant) appealed an unemployment insurance decision dated January 3, 2011, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Target (employer) without good cause attributable to the employer. Administrative Law Judge Susan Ackerman conducted an initial hearing on this matter in appeal 11A-UI-UI-00404-BT, in which benefits were denied. The claimant appealed the decision and the Employment Appeal Board remanded for further development of the record in an order dated June 8, 2011. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 19, 2011. The claimant participated in the hearing. The employer participated through Amy Mosley, human resources business partner, and Aaron Wedo, human resources technician. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired as a full-time warehouse worker on June 9, 2009. He was hired for a B Key shift, which was a schedule of 40 hours per week. The claimant worked four months until October 2009, when he went on medical leave for a non-work-related medical injury. He was released to return to work on April 18, 2010 and returned to an A Key shift, which included 36 hours per week. All employees on A Key earn a \$1.00 per hour pay differential. The employer puts an employee in the available shift when the employee is returned to work after a non-work-related medical leave. The claimant was scheduled for 152 hours between April 18, 2011 and May 22, 2011, but only worked 66 hours due to either calling in or leaving work early.

The claimant was again taken off work on May 22, 2011, due to a non-work-related injury to his left foot. At that point, he was on short-term disability earning 60 percent of his pay until he returned to work on approximately October 13, 2010. The claimant subsequently had problems with his right foot and was taken off work again until November 4, 2010. He exhausted his leave options and had lost his reinstatement rights due to the fact that he had worked less than two full weeks of work in 2010.

The employer contacted the claimant on November 2, 2010 and offered him a seasonal A Key shift. The claimant would work in the seasonal position until a full-time position opened up. The pay was the same pay he had earned when he returned to work in April 2010. The difference was that the employer did not pay for the claimant's benefits until he returned to full-time. The claimant declined the position due to inadequate daycare arrangements and the fact that he was only offered a seasonal position instead of a full-time position. The employer offered the claimant additional time to make daycare arrangements, but he was not interested. The claimant voluntarily quit his employment at that time.

#### **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by declining to return to work with the employer on November 2, 2010.

The claimant voluntarily quit due to inadequate daycare arrangements and a change in the contract of hire. A voluntary separation due to lack of childcare does not constitute good cause for a voluntary quit. However, the law presumes a claimant has left employment with good cause when he quits because of a change in the contract of hire. 871 IAC 24.26(1). A "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 the case herein, the employer had to assign the claimant to a different position, since he exhausted his medical leave and lost his reinstatement rights. Additionally, the employer was trying to get the claimant back to work as soon as possible after he was released to return to work without restrictions. The claimant had not worked full-time since October 2009 and he worked less than 80 hours in 2010. The only significant difference in the job he was being offered compared to the job he previously worked in 2009 was the fact that the employer would not pay for benefits. However, that was only a temporary difference, because the claimant would have been placed in the first full-time position that opened up. Consequently, the administrative law judge does not find there is a substantial change in the contract of hire.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated January 3, 2011, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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