

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NANCY J HAYES
Claimant

FOOD BANK OF SOUTHERN IOWA INC
Employer

APPEAL 17A-UI-12267-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/29/17
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 27, 2017 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit to avoid having her social security benefits lowered. The parties were properly notified of the hearing. A telephone hearing was held on December 19, 2017. The claimant, Nancy J. Hayes, participated. The employer, Food Bank of Southern Iowa, Inc., participated through Janey Huston, Chair of the Board of Directors.

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 thirty hours per week, most recently as an agency relations coordinator, from March 2011 until November 2, 2017, when she quit. Claimant gave the employer one month notice that she would be leaving her employment. Claimant testified that she worked part-time hours throughout her employment. In the fall of 2017, claimant was notified that she would be required to work 40 hours per week effective January 1, 2018. This would force claimant to lose out on some of the social security benefits to which she is entitled. Claimant did not want to lose her benefits, so she quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant quit due to a change in her contract of hire. Benefits are allowed.

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.

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:

24.26(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 of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 recently 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, claimant was told that she was going to have to begin working full-time. Claimant had only ever worked part-time hours for this employer, and she only has wages from part-time employment in her base period. Claimant had a compelling reason for wanting to work only part-time hours. Claimant has established she quit due to a change in her contract of hire. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The November 27, 2017 (reference 01) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn