

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAWN G DORSETT

Claimant

APPEAL NO: 08A-UI-00904-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AEC ENTERPRISES INC

Employer

**OC: 01/06/08 R: 03
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

AEC Enterprises, Inc. (claimant) appealed a representative's January 24, 2008 decision (reference 01) that concluded Shawn G. Dorsett (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 11, 2008. The claimant participated in the hearing. John Clark appeared on the employer's behalf and presented testimony from one other witness, Sandy VanVeen. 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:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on March 5, 2007. Since early May 2007 she worked full time as a lead person in the employer's shipping and receiving department. She continued in that position on reduced hours from July 8 due to pregnancy complications until she went on maternity leave effective August 5, 2007.

The claimant returned from maternity leave November 5, 2007. However, when she returned the employer had hired someone into her position in the shipping department. She was shuffled through approximately four different areas between November 5 and December 19, primarily assigned to cleaning duties. She became known upon employees as the "cleaning lady." When she complained to the employer about needing to be placed in a fixed position that was not primarily cleaning duties, even if it were not the lead person position in shipping, the employer indicated that it was doing cross training and shuffling of jobs within the fabrication department and it had no set position for the claimant. As a result of the substantial change in the claimant's job duties, she determined to quit her employment.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

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.

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.

A "contract of hire" is merely the terms of employment agreed to between an employee and an employer, either explicitly or implicitly; for purposes of unemployment insurance benefit eligibility, a formal or written employment agreement is not necessary for a "contract of hire" to exist. "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988); Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). While the employer may have had a good business reason for not returning the claimant to the same or a comparable position, the change in the claimant's job duties which had been implemented was a substantial change in the claimant's contract of hire. Dehmel, supra. Benefits are allowed.

DECISION:

The representative's January 24, 2008 decision (reference 01) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs