

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA M DORN
Claimant

APPEAL NO. 11A-UI-02347-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

SKYWEST AIRLINES INC
Employer

**OC: 12/12/10
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated February 16, 2011, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 21, 2011. The claimant participated. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Debra Dorn.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a domestic airline. The claimant was hired as a cross-utilization agent and worked at the Des Moines, Iowa, airport. She was hired in January 2010. The claimant was told her salary would be \$9.00 an hour and that she would work 20 hours per week. Her schedule would be changed every six months to accommodate changes in the numbers of passengers.

When the claimant actually began work, she was paid only \$8.50 per hour. The claimant accepted this, thinking she would get her raise as promised. The raise was only \$0.25 per hour. Her schedule changed every month, not every six months. Training that had been promised was never given, despite complaints on the part of the claimant. The claimant also reported equipment problems that were never addressed.

A meeting was held with the employer and other employees in early August 2010, where the claimant asked about things such constant schedule changes, lack of training, and equipment not being up to par. In addition, the claimant's hours had been cut from 20 hours per week to 12 hours per week. She was required to work a split schedule from 4:00 a.m. to 6:00 a.m. and

then return for another two-hour shift later in the day. The employees were promised that these conditions would be addressed, but they were not.

The claimant gave her two-week notice at the end of August 2010. She was persuaded to stay longer after the employer promised to make the requested changes. The employer did not make the changes and the claimant resigned effective September 18, 2010.

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.

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 quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence established that it was the claimant who initiated the separation of employment. The issue is whether the claimant's quitting was for good cause attributable to the employer. Iowa law states that if there is a substantial change in the contract of hire, then a quit is deemed to be with good cause attributable to the employer.

The claimant credibly testified that there were substantial changes in the contract of hire. The employer did not pay the promised \$9.00 per hour but rather paid only \$8.50 per hour. The claimant acquiesced in that change, thinking that she would get the promised raise. The raise was only \$0.25 per hour. Schedules were changed constantly instead of every six months. Promised training was not provided and complaints about equipment were not addressed. The employer then reduced the claimant's hours from 20 hours per week to 12 hours per week and required her to work two-hour split shifts. The claimant and other employees complained to management and despite assurances that changes would be made, no changes were forthcoming.

The administrative law judge concludes that the evidence establishes a substantial change in the contract of hire. The claimant's quitting was therefore for good cause attributable to the employer. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's decision dated February 16, 2011, reference 01, is reversed. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw