

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JORDAN L COOPER
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL 21A-UI-09970-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant Jordan Cooper, filed an appeal from the March 30, 2021 (reference 01) unemployment insurance decision that denied benefits based upon claimant's separation from employment. The parties were properly notified of the hearing. A telephone hearing was held on June 22, 2021. The claimant, Jordan Cooper, participated personally. The employer did not register for or participate in the hearing. The administrative law judge took official notice of the claimant's administrative records.

ISSUES:

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 began working for Casey's in October of 2010. He was a full time delivery driver for the employer working 3:00 pm -11:00 p.m. The employer notified the claimant in late January 2021 that they would no longer be providing delivery service for their customers. The claimant was the primary delivery driver for employer. The employer offered the claimant work within one of the employer's stores but this position would be at a substantially lower rate in pay than the claimant's current position. The claimant provided his two week notice and worked those two weeks with February 13, 2021, being his last day of employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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.

Claimant had an intention to quit and carried out that intention by telling the employer he could not complete the job tasks, turning in his keys, leaving his shift and not returning for future shifts. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual, or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing, or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956).

Claimant may still be eligible for unemployment insurance benefits if he voluntarily quit due to intolerable working conditions. Generally, notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, 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 concluded that, because the intent-to-quit requirement was added to 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. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

A claimant may also be eligible for benefits if they establish that there was a substantial change in the contract of hire. The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993). The test is whether a reasonable person would have quit under the circumstances. *Aalbers v. Iowa Dept. of Job Service*, 431 N.W.2d 330 (Iowa 1988). "Change in the contract of hire" means a substantial change in the terms or conditions of employment. *Wiese v. Iowa Department of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986).

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:

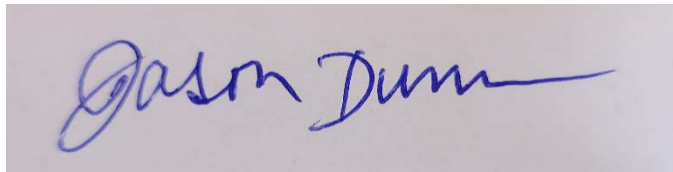
- (1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize

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 employer's decision to end delivery service eliminated the claimant's job. Although the claimant was offered a position in-store this new position would have been at a substantially lower rate in pay for the claimant. Additionally, the claimant had worked for the employer for over 10 years delivering pizzas in the late afternoon and evening hours and was accustomed to those hours and the tips and delivery fees that he had been collecting for that work. The elimination of his position and loss of the tip money and delivery fees along with his hourly rate of pay was substantial. Claimant voluntarily quit his employment with good cause attributable to his employer. Benefits are allowed.

DECISION:

The March 30, 2021 (reference 01) unemployment insurance decision is REVERSED. Claimant voluntarily quit employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.



Jason Dunn
Administrative Law Judge
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July 16, 2021
Decision Dated and Mailed

jd/scn