

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JIMMY D LETZE
725 AUBURN
CHARITON IA 50049

AUBURN MANOR
c/o RUTH HINES
PO BOX 839
CHARITON IA 50049

Appeal Number: 05A-UI-08517-DWT
OC: 07/10/05 R: 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Jimmy D. Letze (claimant) appealed a representative's August 10, 2005 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Auburn Manor (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 1, 2005. The claimant participated in the hearing. Samuel Hines (Todd) appeared on the employer's behalf. 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 his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in July 2002. The claimant worked part time or three days a week in housekeeping. His supervisor was Samuel Hines (Todd).

The claimant's supervisor never had any problems with the claimant's work performance. Other management personnel wanted the claimant to quit. R. reduced the claimant's hours to one day a month so the claimant would quit. The employer also hired another employee that the claimant did not know about until the new employee was scheduled to work. The claimant asked Ruth Hines why his hours were reduced, and she told the claimant to talk to his supervisor, Todd.

After the employer reduced the claimant's hours from three days a week to one day a month, the claimant resigned. The claimant resigned as of July 8, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §96.5-1. The claimant quit his employment on July 8, 2005. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant voluntarily quits with good cause attributable to the employer when he quits because of a substantial change in the employer's relationship. 871 IAC 24.26(1). The evidence indicates the employer forced the claimant to quit by reducing his hours of work from three days a week to one day a month. Even though the claimant's supervisor was satisfied with the claimant's work performance, at least one person in management did not want the claimant working for the employer. To accomplish this objective, the employer hired another employee and reduced the claimant's hours substantially by over 80 percent. The employer may assert the reason for the reduction in hours was not the fault of the employer. In Wiese v. Iowa Department of Job Service, 389 N.W.2d 676 (Iowa 1986), the Iowa Supreme Court stated: "We believe that a good faith effort by an employer to continue to provide employment for his employees may be considered in examining whether contract changes are substantial and whether such changes are the cause of an employee quit attributable to the employer."

In Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988), the Iowa Supreme Court ruled that a 25 percent to 35 percent reduction in hours was, as a matter of law, a substantial change in the contract of hire. Further, while citing Wiese with approval, the Court stated that:

It is not necessary to show that the employer acted negligently or in bad faith to show that an employee left with good cause attributable to the employer.... [G]ood cause attributable to the employer can exist even though the employer be free from all negligence or wrongdoing in connection therewith.

(Id. at 702.) Dehmel, the more recent case, is directly on point with this case. Therefore, the fact the employer may have good reasons for the pay reduction, under the reasoning of Dehmel, is immaterial in deciding whether the claimant left employment with or without good cause attributable to the employer.

The Court in Dehmel concluded a 25 percent to 35 percent pay reduction was substantial as a matter of law, citing cases from other jurisdictions that had held reductions ranging from 15 percent to 26 percent were substantial. Id. at 703. Based on the reasoning in Dehmel, a reduction in pay as the result of a reduction of hours of more than 80 per cent is also substantial, and as a matter of law is a good cause to leave employment. As of July 10, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 10, 2005 decision (reference 02) is reversed. The claimant voluntarily quit his employment for reasons that constitute good cause. As of July 10, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjw