IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

JOSHUA E JEBE
Claimant

CARDINAL CONSTRUCTION INC
Employer

APPEAL NO. 07A-UI-08856-LT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 08/19/07 R: 03
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 14, 2007, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on October 4, 2007. Claimant participated. Employer participated through Angie Joerger.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time laborer from September 3, 2007 until August 17, 2007 when he quit. His supervisor Rick Lehman had agreed in December 2006 that claimant could attend school on the John Deere training program and work around his school schedule without having to work a certain number of hours in a row. He started school in January 2007 and those arrangements worked well from January through May; he worked full time hours during break; and then worked various part time hours while in summer school. The overall history was about 2.5 hours per day. Employer then moved claimant from an ongoing job at Hawkeye Community College to Waverly. Lehman told claimant that the "two hours here crap and two hours there crap is not going to fly" and he would need to work four hours per day. Claimant said he could not do that while attending school and asked if that meant he could no longer work there. Lehman responded that it looked like he had his answer then. Claimant returned to school on August 17.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment with good cause attributable to the employer.

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.

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.

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. EAB*, 433 N.W.2d 700 (Iowa 1988). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Inasmuch as the claimant would suffer a change in hours that would limit his ability to attend school as employer had originally agreed, the change of the original terms of hire is considered substantial. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The September 14, 2007, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Note to both parties: However, since employer has offered employment commensurate with the original agreement during the hearing, claimant and employer must explore that arrangement in

more detail. If the issue is not resolved, it may be reported to the local office for investigation and determination of a refusal of work, a failure to apply for work or limitations on availability for work.

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Dévon M. Lewis
Administrative Law Judge

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Decision Dated and Mailed

dml/css