

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA RARDIN
Claimant

APPEAL NO: 08A-UI-01263-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ELECTRONIC DATA SYSTEMS
CORPORATION**
Employer

**OC: 01-06-08 R: 02
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 25, 2008, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on February 20, 2008. The claimant participated in the hearing. Byron Smith, Service Relations Supervisor; Tom Jordon, Operations Manager; Eric Mathieu, Operations Manager; and Barb Hamilton, Employer's Representative, participated in the hearing on behalf of the employer. Employer's Exhibits One through Five were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time customer service representative for Electronic Data Systems from June 11, 2007 to December 18, 2007. She voluntarily quit because she felt the employer harassed her, created a hostile work environment and changed her contract of hire by changing her work hours after she returned from maternity leave. The claimant received written warnings September 27 and October 9, 2007, for leaving without permission. She was pregnant and did not feel well and asked to speak to her supervisor to tell him she needed to leave but he was too busy to meet with her right away. She was also upset because employees were talking about her behind her back. She was experiencing problems with her pregnancy and was placed on short-term disability October 18, 2007, and her maternity leave began November 6, 2007, when she had her baby. The employer called her shortly after her maternity leave began and told her she needed to return to work because her short-term disability was over. She explained she was on maternity leave and her supervisor looked up the dates and called her back acknowledging she was correct. The claimant was scheduled to return to work December 18, 2007, but did not schedule her doctor appointment to secure her release to return until December 19, 2007. On December 21, 2007, the employer informed her that it was

changing her hours from 8:00 a.m. to 5:00 p.m. to either 10:00 a.m. to 7:00 p.m. or 10:30 a.m. to 7:30 p.m. The claimant went to human resources about the change but was told it did not get involved in change of hour situations. The claimant is a single parent and had to retrieve her child from daycare by 5:30 p.m. or pay an extra \$200.00 per week in daycare costs. She told the employer she was considering leaving because of the change in her hours but the employer did not respond to her concerns. On December 28, 2007, the claimant showed up for work and was told she needed to sit for retraining and she told the employer she was leaving and not coming back.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with 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.

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 from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While the administrative law judge is not convinced the claimant was harassed on the job within the legal meaning of that term, the change in the claimant's work hours, although within the parameters of maternity leave, constitute a substantial change in the claimant's contract of hire. She was hired to work 8:00 a.m. to 5:00 p.m. Changing the start and end times of her workday by at least two hours is substantial. While the employer is only required to hold a comparably similar job for employees on maternity leave, in this case it almost seems as if the employer was punishing a difficult employee by changing her hours and used her maternity leave as an opportunity to do so. Under these circumstances the administrative law judge must conclude that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits must be allowed.

DECISION:

The January 25, 2008, reference 01, decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs