

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TARA E JONES**  
Claimant

**EAST PENN MANUFACTURING CO INC**  
Employer

**APPEAL 15A-UI-11020-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/31/15**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 25, 2015, (reference 03) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on October 16, 2015. Claimant participated. Employer did not participate.

**ISSUE:**

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 was employed full-time as a production worker from June 2012, and was separated from employment on August 12, 2015, when she voluntarily quit.

Claimant felt she was being sexually harassed and treated unfairly by her supervisor. It was causing her anxiety. Claimant took two weeks of medical leave in October 2014. The situation did not improve and claimant took an additional two weeks of medical leave in February 2015. Before returning to work, employer required claimant to be released by its company doctor. Neither the company doctor nor claimant's personal physician would release her to return to work. Claimant remained on medical leave and began receiving short-term disability benefits.

Claimant exhausted her short-term disability benefits in August 2015. Employer's personnel department contacted claimant to see what she was going to do. Claimant asked if she could return to work in a different department. Employer offered claimant a position as a forklift driver. The forklift driver position paid one dollar less per hour than claimant's previous position and the schedule required her to work from 6:00 a.m. to 2:00 p.m., as opposed to her previous schedule of 7:00 a.m. to 3:00 p.m. The new schedule did not work for claimant's family. Thus, claimant voluntarily resigned from her position.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment for no disqualifying reason.

A claimant is disqualified from receiving unemployment benefits if the claimant left work voluntarily without good cause attributable to the employer. Iowa Code § 96.5(1). A claimant who resigns for health reasons may be considered to have quit for good cause attributable to employer if certain criteria are met. Iowa Code § 96.5(1)(d). When a claimant resigns because of a health condition related to employment, the claimant is considered to have quit with good cause attributable to the employer if the claimant presents competent evidence showing health reasons related to the work justify the resignation, and before resigning the claimant informed the employer of the health condition and that he or she intended to quit unless the problem was corrected or a reasonable accommodation was provided. Iowa Admin. Code r. 871–24.26(6)(b). “Reasonable accommodation” is “other comparable work which is not injurious to the claimant’s health and for which the claimant must remain available.” *Id.*

Here, claimant may be able to show she had health reasons that justified resignation. She experienced anxiety based on alleged harassment from her supervisor. However, when claimant asked to be reassigned to another department, employer offered claimant another position. This would have alleviated the health concern. Claimant did not accept the position because the pay would have been one dollar an hour less than her previous rate of pay and the hours offered did not work for her family.

Even if the change in working hours did not work for claimant and her family, this is not a reason attributable to employer.

Iowa Admin. Code r. 871-24.25(17) and (18) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(17) The claimant left because of lack of child care.

(18) The claimant left because of a dislike of the shift worked.

The change in the rate of pay also is not a good-cause reason attributable to employer, as defined by unemployment law.

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.

While a one dollar an hour decrease in pay may not be desirable, it is not a substantial change in the contract of hire.

Claimant failed to establish she resigned with good cause attributable to employer.

**DECISION:**

The September 25, 2015, (reference 03) unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Decision Dated and Mailed

cal/pjs