

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RODNEY E PLISS**  
Claimant

**APPEAL NO: 12A-UI-03748-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PETERSON CONTRACTORS INC**  
Employer

**OC: 11/20/11**

**Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Peterson Contractors, Inc. (employer) appealed a representative's April 6, 2012 decision (reference 01) that concluded Rodney E. Pliss (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 26, 2012. The claimant participated in the hearing. Donna Saak 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 for a good cause attributable to the employer?

**OUTCOME:**

Affirmed. Benefits allowed.

**FINDINGS OF FACT:**

The claimant started working for the employer on September 29, 2009. He worked full time as a truck driver and laborer in the employer's highway and building construction business. His last day of work was March 6, 2012. He voluntarily quit work as of that date.

When the claimant interviewed for the position with the employer, he specifically informed the employer that he had family obligations which necessitated that he be able to be home each evening; the employer assured him that there were many of the employees who only worked locally, and it would not be a problem for the claimant to do so. During the claimant's employment, the claimant had always worked at work sites no more than 55 miles away from his home; in 2011 he worked for about five months at locations between 15 to 20 miles from his home, worked for about a month at a location about 28 miles from his home, and for about a month and a half at a location about 45 miles from his home. His last work location, at which he worked about two weeks, was about 50 to 55 miles from his home.

On March 6 the claimant's foreman informed him that as of the next day the work the employer had available for him was south of Council Bluffs, Iowa on Highway 34; this was about 110 miles one way from the claimant's home. He told the foreman that this was farther than he could drive both ways to be home each night as he needed. The foreman responded that if the claimant could not work at that location, he could quit. The claimant attempted to contact the employer's owner to discuss the matter, but received no response to his message. As he could not work as far away from home as the employer was requiring, and as the employer had assured him he would not have to work that far away from home when he was hired, the claimant submitted his resignation.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. A substantial change in contract of hire is recognized as grounds that are good cause for quitting that is attributable to the employer. 871 IAC 24.26(1). A "contract of hire" is merely the terms of employment agreed to between an employee and an employer, either explicitly or implicitly; for purposes of unemployment insurance benefit eligibility, a formal or written employment agreement is not necessary for a "contract of hire" to exist. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787 (Iowa 1956). While the employer may have had a good business reason for not providing further work for the claimant that was within a distance reasonable for daily commuting as had been previously promised, the change in the claimant's job location which was being required was a substantial change in the claimant's contract of hire. *Dehmel*, supra. Benefits are allowed.

**DECISION:**

The representative's April 6, 2012 decision (reference 01) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs