

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**SHARON K MCAVAN**  
Claimant

**SENIOR HOUSING MANAGEMENT INC**  
Employer

**APPEAL 14A-UI-07395-LT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/22/14**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871-24.26(1) – Voluntary Quitting – Change in Contract of Hire

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 14, 2014 (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on August 19, 2014. Claimant participated and was represented by Matt Reilly, Attorney at Law. Employer participated through Nicole Bown, Controller; Tasia Johnson, Human Resource Specialist; and Allison Law, Vice President of Operations. The employer's proposed exhibit was not admitted to the record because the issue it addresses is not in dispute.

**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 (40 hours per week) as the accounts payable manager since 2008 and was separated from employment on June 19, 2014 when she quit. The employer's business had changed in the past several years such that it needed someone with a bachelor's degree in accounting and believed claimant was not able to keep up with those changes with her bachelor's degree in elementary education and associate's degree in accounting. Her only job performance issue was because of her lack of education, training or experience. Employer took the claimant's job and gave it to Kala Bontrager on June 16, 2014. Law and Bown notified her of the employer's intention to hire a younger person with a background in accounting. She was demoted to temporary administrative assistant on June 17 and her hours would fluctuate depending on work availability. She would have worked no more than 19.5 hours per week. Her hourly rate stayed the same but she lost life, disability, health, dental, and vision insurance. She kept her 401k and employer contributions.

## 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:

### **Causes for disqualification.**

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.

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:

**24.26(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. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Although claimant was not required by law to give the employer notice of her intent to quit, the change to the terms of hire must be substantial in order to allow benefits. Since there was no disqualifying basis for the demotion, the quit because of the change in contract of hire was with good cause attributable to the employer. Inasmuch as the claimant would suffer a substantial change in the terms of hire, including a loss of position status, and employer has not established misconduct as a reason for the effective demotion, the change of the original terms of hire is considered substantial. While the employer is certainly entitled to make personnel decisions based upon its needs, that need does not necessarily relieve it from potential liability for unemployment insurance benefit payments. Since claimant's hours and benefits were reduced and she was demoted because of a business decision, the separation was with good cause attributable to the employer. Benefits are allowed.

**DECISION:**

The July 14, 2014 (reference 01) unemployment insurance decision is reversed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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