

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

TERAH J GUNTER
Claimant

APPEAL NO. 18A-UI-08484-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 07/08/18
Claimant: Appellant (2)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Terah Gunter filed a timely appeal from the July 30, 2018, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the Benefits Bureau deputy's conclusion that Ms. Gunter voluntarily quit on April 4, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on August 30, 2018. Ms. Gunter participated. Melodie Lampe represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and Exhibits 1, 2 and A were received into evidence.

ISSUE:

Whether Ms. Gunter's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Terah Gunter was employed by Casey's Marketing Company from 2014 until March 21, 2018, when she voluntarily quit. Throughout the employment, Ms. Gunter worked at a Casey's store located in Evansdale. Ms. Gunter began her employment as a part-time cashier. Three months into the employment, Ms. Gunter was promoted to full-time status. In 2015, Ms. Gunter's established work hours became 9:00 a.m. to 4:00 p.m. or 7:00 a.m. to 3:00 p.m. and Ms. Gunter's established work days became Tuesday through Saturday. Ms. Gunter continued in these established work hours until the beginning of March 2018. In December 2017, Melodie Lampe became Store Manager at the Evansdale store where Ms. Gunter worked.

At the beginning of March 2018, Ms. Lampe changed Ms. Gunter's work hours in connection with the employer's decision to hire a second assistant manager for the Evansdale store and the employer's conclusion that it no longer needed Ms. Gunter to work the early to mid-morning hours. Ms. Gunter's pay and duties did not change. Ms. Lampe changed Ms. Gunter's work days to Monday through Friday. Ms. Lampe changed Ms. Gunter's start time to 10:00 a.m., 11:00 a.m. or noon and changed Ms. Gunter's end of shift time to 5:00 p.m., 6:00 p.m. or 7:00 p.m. Ms. Lampe mentioned to Ms. Gunter the likelihood that Ms. Gunter would also be scheduled for an evening shift. The change in work hours created a hardship for Ms. Gunter.

Until February 2018, Ms. Gunter had lived with her grandparents in Evansdale. In February 2018, before the announced change in work hours, Ms. Gunter moved to Morrison, Iowa and commenced commuting 30 minutes to the workplace in Evansdale. Ms. Gunter has never possessed a driver's license, is in the process of obtaining a driver's license, but in the meantime is dependent on her boyfriend for transportation to and from her workplace. Ms. Gunter's boyfriend's work hours are 8:00 a.m. to 5:00 p.m. Ms. Gunter's previous work schedule made it possible for her boyfriend to drop her off on his way to work and to pick her up on his way home from work. Ms. Gunter would of course be early for work and would have to wait after the end of her shift for boyfriend to collect her from the workplace. The employer's decision to shift Ms. Gunter's work hours to later in the day significantly extended the lag time between Ms. Gunter's drop-off time and the start of her shift. The employer's decision to shift Ms. Gunter's work hours to later in the day also made it necessary for Ms. Gunter's ride to wait up to two hours later to collect Ms. Gunter from the employment. If the employer moved forward with its plan to schedule Ms. Gunter for an evening shift, that would have had further adverse impact on the couple's transportation arrangement. Ms. Gunter brought her concerns regarding the change in work hours to the employer's attention as soon as the change was announced. When that made no difference, Ms. Gunter provided a two-week notice that she would be leaving the employment. Ms. Gunter worked the two-week notice period and separated from the employment on March 21, 2018.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986).

Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. *Id.* An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See *Olson v. Employment Appeal Board*, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The weight of the evidence in the record establishes a voluntary quit based on a substantial change in the conditions of the employment. The changes included a change in shift hours that had a substantial and detrimental impact on Ms. Gunter. The changes included a change in work days. Ms. Gunter's voluntary quit was for good cause attributable to the employer. Ms. Gunter is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The July 30, 2018, reference 01, decision is reversed. The claimant quit the employment for good cause attributable to the employer. The quit was effective March 21, 2018. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs