

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES R HORNE
Claimant

APPEAL NO. 22A-UI-06302-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NID INC
Employer

OC: 02/20/22
Claimant: Respondent (2)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

On March 14, 2022, James Horne (claimant) filed a timely appeal from the March 10, 2022 (reference 01) decision that disqualified him for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily quit on February 23, 2022 without good cause attributable to the employer. After due notice was issued, a hearing was held on April 20, 2022. Claimant participated. Jeremy Gouge represented the employer and presented additional testimony through Aaron Boyenga and Stephanie Gardner. Exhibits 1 through 23 and A were received into evidence.

ISSUE:

Whether the claimant'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: James Horne (claimant) was employed by Iowa Motor Truck Transport, Inc., a commercial trucking enterprise, on a full-time basis from June 2020 until February 23, 2022, when he voluntarily quit in response to changes in the conditions of the employment. From the start of the employment until December 30, 2021, the claimant was employed as a full-time dispatcher/fleet manager. The dispatcher/fleet manager duties were sedentary duties. The claimant has a history of colorectal cancer and suffers from periodical abdominal pain and "gastrointestinal instability." Effective September 2, 2021, the employer approved the claimant for intermittent leave under the Family and Medical Leave Act (FMLA), based on the claimant's gastrointestinal issues and the claimant's doctor's certification that the intermittent leave was medically necessary. The claimant is also vision impaired. The claimant underwent cataract surgery in October 2021. The claimant continued thereafter to suffer from vision impairment that required use of magnification technology.

Effective December 30, 2021, the employer removed the claimant from almost all of his dispatch/fleet manager duties. The claimant's work hours and wage remained the same. In correspondence with the claimant, the employer stated the claimant had made too many mistakes in communication and documentation, which mistakes the employer attributed to the

claimant's vision impairment and possible hearing impairment. The employer also cited the claimant's medically-based absences as disruptive to work processes. The employer also alleged that the claimant would become argumentative when the employer attempted to address errors in the claimant's performance of the dispatch/fleet manager duties. The claimant performed the dispatcher/fleet manager duties in good faith and to the best of his ability. The employer assigned other staff to almost all of the claimant's dispatcher/fleet manager duties. The employer allowed the claimant to retain keeping the "freight boards" up to date, which had been part of the dispatcher/fleet manager duties. The employer reassigned the claimant to "help the shop by running for parts and other odd jobs." Over time, the shop work evolved to where the claimant's supervisor, Rick Burroughs, Acting Supervisor, had the claimant assist with more physically taxing work in the shop. The more physically taxing work aggravated the claimant's "gastrointestinal instability" and prompted the claimant to see additional medical evaluation and treatment. The claimant continued to attempt to return to the sedentary office duties, which the employer deemed "sneaking" into the office to perform computer work. The employer continued to the claimant he could not return to the computer-based duties and needed to focus on shop duties.

By February 23, 2022, the claimant concluded he could not continue to perform the shop duties. The claimant made a final request to return to the dispatcher/fleet manager duties. When the employer declined to return the claimant to the duties for which the claimant had been hired, the claimant elected to immediately separate from the employment. After the claimant separated from the employment, the claimant and the employer engaged in further correspondence wherein the employer stated the claimant could continue in light-duty shop duties that claimant felt he was capable of performing. The claimant elected not to return to the employment.

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 indicates that the claimant voluntarily quit the employment on February 23, 2022 in response to substantial changes in the conditions of the employment. The substantial changes involved removing the claimant from the sedentary computer-based work the claimant had performed from the start of the employment until December 30, 2022 and reassigning the claimant to perform primarily shop work and parts runs. The employer fundamentally changed the type of work assigned to the claimant. After the initial change at the turn of the year, the assigned shop duties continued to evolve over time, to the claimant's physical detriment, until the claimant concluded he could not continue in the employment. The administrative law judge notes Mr. Burroughs' conspicuous absence from the appeal hearing. Given the evolving nature of the changed conditions, and the claimant's continued attempts to return to the sedentary computer work, the evidence establishes the claimant left the employment within a reasonable time and did not acquiesce in the changed duties. The claimant's voluntary quit was for good cause attributable to the employer. Accordingly, the claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The March 10, 2022 (reference 01) decision is REVERSED. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.



James E. Timberland
Administrative Law Judge

May 9, 2022
Decision Dated and Mailed

jet/scn