

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHANIE L PRASHANT
Claimant

APPEAL NO. 09A-UI-07863-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TM1 STOP LLC
Employer

OC: 04/19/09
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 20, 2009, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 16, 2009. Claimant participated. Employer participated by Heather Hoyt. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant worked as a telephone sales person for the employer. In November 2008, the claimant was promoted to a position that worked with customers of Office Depot. She was paid \$9.00 per hour and an attendance bonus of \$3.50 per hour if she worked 40 hours per week. The employer received information from their customer, Office Depot, they no longer wanted the claimant on the account. On April 16, 2009, the employer offered the claimant a job working at \$8.75 per hour with an attendance bonus of \$1.75 per hour if she worked 40 hours per week. The claimant decided she did not want to accept the change in pay and resigned on April 20, 2009. The claimant was due for a 25 cent raise in a couple of weeks due to longevity, which she would have received in either position.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

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.

871 IAC 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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The reduction of wages of 25 cents per hour and reduction of the attendance bonus by half to \$1.75 per hour is a substantial reduction. Even without factoring in the attendance bonus the 25 cent reduction is substantial given the wages the claimant was receiving. The claimant quit due to a substantial change of contract of hire.

The administrative law judge holds that the evidence has established the claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a reduction in pay.

DECISION:

The decision of the representative dated May 20, 2009, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/css