IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

STUART CHILDERS
Claimant

THOMAS L CARDELLA & ASSOCIATES INC
Employer

APPEAL NO: 15A-UI-04083-ET

ADMINISTRATIVE LAW JUDGE DECISION

OC: 03/08/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 25, 2015, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on May 5, 2015. The claimant participated in the hearing. Dylan Hutton, Director of Operations and Barbara Toney, Employer Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time customer car agent for Thomas L. Cardella Associates from June 3, 2013 to March 9, 2015. He voluntarily left his employment by calling the employer March 9, 2015, and stating he would not be back.

The claimant stated his schedule changed the previous two to three weeks and he was unhappy about that fact. The employer indicated the claimant's schedule changed the week of February 22, 2015, because the client, Verizon, changed its call routing routine so the employer was not receiving as many calls between 8:00 a.m. and 10:00 a.m. the week of February 22, 2015. The claimant also said the employer changed the bonus structure at the beginning of 2015 and they were told not to sell. The employer explained that occasionally Verizon instructed it to focus solely on customer service issues rather than selling and that occurred in January 2015. The employer denies that changed the claimant's pay because when that change from Verizon occurs the employer weighs aspects of the calls differently which allows employees to continue to earn their bonus money.

The claimant stated that sometimes he would be required to work a mandatory four hours of overtime and that he believed if he did not work those four hours sometime during the week he would lose his attendance bonus for perfect attendance during the two-week pay period. The

claimant did not have his own transportation and relied on a ride from a co-worker and if his co-worker did not want to stay and work overtime the claimant could not do so either. The employer agreed employees are sometimes required to work four hours of mandatory overtime spread out over the week during the holidays with one to two weeks' notice. If an employee does not work the required overtime hours it does not affect his attendance bonus as that is a separate situation.

The claimant stated he worked two hours of overtime on a weekend in the spring/summer of 2014 and expected an extra $25.00 on his check but did not receive it and complained to his supervisor although no action was taken. The employer explained there are several reasons why an employee's pay might be incorrect, such as being logged in under the wrong code or a disagreement between Verizon and the employer's calculations. In those situations the employer simply pays the employee rather than make them wait for their pay if they bring the pay disparity to its attention.

The claimant indicated the employer's equipment was unsafe and pointed to an incident that occurred in the spring/summer of 2014 when the claimant leaned back in his chair and the back of the chair broke causing the claimant to land on his back. He reported the situation to his supervisor who instructed him to get another chair and get back on the phones. The claimant was upset by the lack of concern shown by his supervisor, although he was not injured. He also complained about chair arm rests that were down to the bare metal. The employer countered that it gets new chairs every two quarters or if an employee makes it aware there is a problem. The claimant also reported when the employer cleaned the carpet it placed the chair mats in a hallway and he tripped on one and almost fell but caught himself near the end of 2014.

The claimant also complained of a "booger wall" in the men's restroom behind the urinals and in the stalls. He stated the employer's premises were also dusty. He said he feared an infection due to the situation in the men's restroom. The employer indicated it cleaned the restroom once in the morning and once in the afternoon and usually once during the day. It had never seen the infamous wall described by the claimant.

The claimant stated someone stole his lunch during the summer of 2014. He went to Casey's before work and picked up a sandwich and put it in the refrigerator at work but when he went to get it at lunch his sandwich was half eaten. He was upset because the employer did not do anything about that incident.

The claimant's last complaint regarded the fact employees were required to notify their supervisor when they needed to use the restroom. The claimant also alleged that if an employee was deemed to have taken too long the time was deducted from their breaks or lunch. The employer agrees employees need to inform their supervisor where they are going but denies any time is deducted from their breaks or lunch periods.

The claimant called the employer March 9, 2015, and stated he was quitting. He did not give notice that he was leaving. If an employee has a complaint he can go to the center administrator, the director of operations or speak to the corporate human resources office, all of which information is contained in the employee handbook.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

Iowa Code § 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.

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 from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The claimant cited 11 reasons for leaving his employment March 9, 2015. All of those issues with the exception of the change in his hours, his bonus, and the condition of the employer's equipment, occurred during the spring/summer of 2014. The claimant did not report his concerns to the center administrator, the director of operations, or the corporate human resources department prior to his decision to voluntarily leave his employment. The claimant's resignation seven months after a substantial change in the contract of hire was a disqualifiable event because the claimant was held to have acquiesced in the changes. Olson v. EAB, 460 N.W.2d 865 (Iowa App. 1990). In this case, while there was no substantial change in the claimant's contract of hire, most of the incidents complained of occurred several months prior to the claimant's resignation and were one-time events. As such, they are not considered a good cause basis for the claimant's decision to voluntarily quit his job in March 2015.

The claimant was required to work four hours of overtime during the holiday season in December 2014 due to the volume of work the employer was experiencing. He did not have a vehicle and was not always able to work the overtime during the week assigned because of his transportation situation. Although the claimant asserted that affected his attendance bonus, the employer credibly stated overtime does not affect an employee's attendance bonus as that is a separate program.

The claimant's hours and bonus structure did change occasionally due to Verizon's promotions and goals. Additionally, Verizon pays the employee bonuses. For example, the claimant's hours and bonus changed for one week in February 2015 because Verizon changed its emphasis from selling its products to customer service during one week. Customer service related matters were then weighed in a manner that allowed employees to still collect their bonuses.

The claimant complained of the employer's equipment, specifically the chairs, being worn. The employer, however, switches the chairs out every six months unless there is a problem in which case it makes a change sooner.

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The issues the claimant cited as reasons for his leaving were either one-time events that occurred several months prior to his abrupt resignation or were reasonably explained by the employer. Under these circumstances, the administrative law judge must concludes the claimant has not met his burden of demonstrating that his leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

DECISION:

The March 25, 2015, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Julie Elder
Administrative Law Judge

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Decision Dated and Mailed

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