

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KARI ANN A VOSS

Claimant

APPEAL 19A-UI-07946-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHALKBITES INC

Employer

OC: 08/25/19

Claimant: Appellant (2)

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:

Claimant filed an appeal from a decision of a representative dated October 9, 2019, (reference 04) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 30, 2019. Claimant participated. Employer failed to respond to the hearing notice and did not participate. Claimant's Exhibit A 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 last worked for employer on September 13, 2019. Claimant resigned from the employment because the employer made substantial changes to her hours and work location.

Claimant began working for employer as a full-time business operations manager on September 9, 2019. At the time of hire claimant was told she would be creating virtual reality training materials that would be used by academic institutions. Claimant would be allowed to work at home in Dubuque, Iowa two days each week, and she would be working normal business hours of 8:00 a.m. to 4:30 p.m. Monday through Friday. Claimant agreed to the terms of employment, and she began working on that date.

As claimant began her new position she quickly learned that her hours, and where she would be working were not as she agreed. Claimant also learned that she would not be creating training materials. Instead, she would be managing a virtual reality center for paying clients. Claimant was not allowed to work at home in Dubuque, Iowa, and she was on-call until midnight every night.

Claimant was not able to work the number of hours' employer had scheduled her for, and she was very disappointed that she was not able to work from home as she had been promised. Claimant determined that the changes employer had made to her contract of hire were substantial, and untenable. Claimant proffered a written resignation to employer on September 15, 2019.

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 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.

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.

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 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). A refusal to accept a night shift position at a sanitarium constitutes a good cause quit attributable to the employer when that shift would endanger the claimant's health. *Forrest Park Sanitarium v. Miller*, 333 Iowa 1341, 11 N.W.2d 582 (Iowa 1943).

Since there was no disqualifying basis for the changes made to claimant's hours and work location, the quit because of the change in contract of hire was with good cause attributable to the employer. Inasmuch as the claimant would suffer an economic loss, she would be working an extra 20 hours a week without being compensated, and employer has not established

misconduct as a reason for the effective demotion, the change of the original terms of hire is considered substantial. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The October 9, 2019, (reference 04) 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.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn