

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDY MC CARTHY
Claimant

APPEAL NO. 11A-UI-13667-H2

**ADMINISTRATIVE LAW JUDGE
DECISION**

WILLIAM EADIE RESIDENTIAL SVC INC
C A R E
Employer

OC: 09-11-11
Claimant: Respondent (1)

871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 3, 2011, reference 01, decision that allowed benefits. After due notice was issued, an in person hearing was held on November 16, 2011 at Creston, Iowa. The claimant did participate along with her witness Donna Spare. The employer did participate through Jana Daily, C. A. R. E. Administrator and Laurie Morgan, Human Resources Director.

ISSUE:

Did the claimant voluntary quit her employment without 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 cook full time beginning January 3, 2005 through September 9, 2011 when she voluntarily quit. The claimant was normally scheduled to work a minimum of 35 hours per week. Due to budget cuts the employer decided to reduce her hours down to 30 per week. Pursuant to the employer's handbook the claimant believed that since she would no longer be regularly scheduled for at least 32 hours per week, she would no longer receive benefits including sick time, vacation pay and health insurance benefits. Nothing in the employer's handbook says that any employee who is regularly scheduled less than 32 hours per week may be granted benefits subject to the administrator's discretion. While the employer may have been willing to allow the claimant to work extra hours cleaning in order to reach 32 hours per week, she would not be regularly scheduled for those hours. Both the claimant and her coworker Donna Spare believed that they were going to lose their benefits.

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 § 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.

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. EAB*, 433 N.W.2d 700 (Iowa 1988). The reduction of hours was due to budget concerns, not any disciplinary measure against the claimant. The evidence establishes that the claimant would have lost her benefits due to the reduction in her work hours. Since there was no disqualifying basis for the reduction in hours and subsequent loss of benefits, the quit because of the change in contract of hire is considered a substantial change in the contract of hire and was with good cause attributable to the employer. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The October 3, 2011 (reference 01) decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css