

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT O BEEKS
Claimant

APPEAL NO. 07A-UI-02544-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ERRANDS SERVICE-N-MORE INC
Employer

**OC: 02/11/07 R: 12
Claimant: Appellant (2)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Robert Beeks filed a timely appeal from the March 3, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 28, 2007. Mr. Beeks participated and presented additional testimony from former Errands Service-N-More Housekeeper Supervisor Lisa Somers and from his wife, Barbara Beeks. Steve Ziebell, Vice President, represented the employer. The administrative law judge received claimant's Exhibit A into evidence.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the claimant's quit was in timely response to a significant change in the conditions of his employment.

Whether the claimant's quit was prompted by intolerable and/or detrimental working conditions that would have prompted a reasonable person to quit the employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Robert Beeks was employed by Errands Service-N-More as a full-time Director of Technical Support/Dispatcher from April 1, 2003 until February 11, 2007, when he voluntarily quit. Mr. Beeks quit because the employer did not pay Mr. Beeks and other employees on time and because the employer paid Mr. Beeks and other employees with checks that were rejected due to insufficient funds. Mr. Beeks received a paycheck on February 5 and deposited the check in his credit union account on February 6. Mr. Beeks' credit union subsequently deducted the check amount from Mr. Beeks' account because the check had been rejected by the employer's bank due to insufficient funds. In 2006, Mr. Beeks had received another paycheck from the employer that was rejected by the employer's bank due to insufficient funds. On Friday, February 9, payday, the employer did not provide Mr. Beeks with his check. Over the weekend, Mr. Beeks made several attempts to contact the employer before he sent an e-mail message to the employer on February 11 and left a phone message for Steve Ziebell advising that he could

no longer wait to be paid for his work. On February 12, Mr. Beeks spoke with Patricia Ziebell, President, and told her he could no longer wait to receive his paychecks and was quitting the employment.

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.

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.

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.

"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).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The evidence in the record indicates that Mr. Beeks quit the employment due to a substantial change in the conditions of the employment and due to intolerable working conditions that would

have prompted a reasonable person to quit the employment. The significant change and intolerable working condition was the employer's untimely payment for the work Mr. Beeks had performed and the employer's issuance of payroll checks without sufficient funds to cover the checks. Mr. Beeks quit in a timely fashion in response to the most recent instance of being paid with a bad check and not being paid on time.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Beeks quit the employment for good cause attributable to the employer. Accordingly, Mr. Beeks is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Beeks.

DECISION:

The claims representative's March 3, 2007, reference 01, decision is reversed. The claimant 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 paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css