

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARAH A STOKES

Claimant

APPEAL NO. 15A-UI-05172-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EVERGREEN REAL ESTATE DEVELOPMT

Employer

OC: 03/22/15

Claimant: Respondent (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 28, 2015, reference 01, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits, based on an Agency conclusion that the claimant voluntarily quit on March 20, 2015 for good cause attributable to the employer. After due notice was issued, a hearing was held on June 9, 2015. Claimant Sarah Stokes participated. Angela Adam, Executive Director, represented the employer and presented additional testimony through Heather Wright. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant (DBRO) and of the Administrative record of wages reported by the employer as wages paid to the claimant.

ISSUES:

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

Whether the employer's account may be charged.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Sarah Stokes was employed as a part-time dietary aide and cook at The Rose of Des Moines from June 2014 until March 20, 2015, when she voluntarily quit in response to a decrease in the number of hours the employer had available for her. For most of the employment, the employer provided Ms. Stokes with 16 hours every other weekend and three additional shifts on weekdays. The weekday shifts consisted of 10:00 a.m. to 2:00 p.m. shifts on Monday and Friday and a 4:00 to 7:00 p.m. shift on Wednesdays. In February 2015, the employer decreased the number of hours available Ms. Stokes so that the employer could provide hours to another employee. The employer first eliminated Ms. Stokes' four-hour shift on Monday. In March, the employer further reduced Ms. Stokes' hours by changing her Friday shift to the shorter afternoon hours.

REASONING AND CONCLUSIONS OF LAW:

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 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.

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.

"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).

The evidence in the record indicates that Ms. Stokes voluntarily quit the employment in response to a substantial change in the conditions of the employment. The change was the roughly 25 percent reduction in the number of work hours and associated pay. Ms. Stokes voluntarily quit the employment for good cause attributable to the employer. Ms. Stokes is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Stokes.

DECISION:

The April 28, 2015, reference 01, decision is affirmed. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she 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/pjs