IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

CHARLES R MARTIN
Claimant

TEXAS ROADHOUSE HOLDINGS LLC
Employer

APPEAL NO. 13A-UI-00678-HT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 12/16/12
Claimant: Respondent (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Texas Roadhouse, filed an appeal from a decision dated January 11, 2013, reference 01. The decision allowed benefits to the claimant, Charles Martin. After due notice was issued, a hearing was held by telephone conference call on February 21, 2013. The claimant participated on his own behalf. The employer's witness could not be contacted and TALX representative Tracy Taylor indicated the employer would not participate.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Charles Martin was employed by Texas Roadhouse from May 25 until May 27, 2012, as a full-time sauté cook. At the time he interviewed and was hired, he informed the kitchen manager he could not work past 11:30 p.m. because he depended on the bus system for transportation. The last bus left the nearest location at 11:45 p.m. The kitchen manager agreed.

On May 26, 2012, Mr. Martin examined his new schedule and found he had been scheduled for 4:00 p.m. to "close" which is midnight. He called the kitchen manager the next day and was told those were his hours and nothing could be done about it. Mr. Martin then tendered his resignation.

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.

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.

The claimant accepted the job with the understanding he would be able to leave at 11:30 p.m. each day in order to get the last bus home, and the employer agreed. This agreement was changed by the employer the first scheduled day the claimant was to work. Although a change between 11:30 p.m. and midnight might not seem substantial, the judge considers it to be due to the fact the bus was the only means of transportation the claimant had to get home at the end of his shift. If the employer was not willing to honor the agreement it does constitute good cause for quitting.

DECISION:

The representative's decision of January 11, 2013, reference 01, is affirmed. Charles Martin is qualified for benefits, provided he is otherwise eligible.

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Bonny G. Hendricksmeyer
Administrative Law Judge

_____
Decision Dated and Mailed

bgh/css