

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT HRVOL
Claimant

APPEAL NO: 11A-UI-09688-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

**OC: 06/19/11
Claimant: Respondent (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Per Mar Security & Research Corporation (employer) appealed an unemployment insurance decision dated July 13, 2011, reference 01, which held that Robert Hrvol (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 16, 2011. The claimant participated in the hearing. The employer participated through Wendy Larison, Human Resources Payroll Specialist. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time security officer from April 14, 2007 through June 22, 2011. He voluntarily quit his employment due to a change in the contract of hire. The claimant's hours were reduced from 40 to two hours per week. The employer demoted him because he had three disciplinary warnings within a 12-month period.

The final incident occurred on May 22, 2011 when the claimant acted unprofessional during a tornado warning. The employer witness had no firsthand knowledge and could not provide any detailed evidence regarding the final incident.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

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.

The claimant quit his employment on June 11, 2011 due to a change in the contract of hire. His hours were reduced from full-time to only two hours per week. A "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).

When an employer discharges an employee for misconduct, the employee is disqualified from receiving unemployment benefits. It is consistent with the statutory framework to extend that analysis to hold that in situations in which an employer demotes an employee for misconduct warranting discharge, an employee who leaves employment should be disqualified from receiving benefits. *Goodwin v. BPS Guard Services, Inc.*, 524 N.W.2d 28 (Minnesota App. 1994). In the case herein, the claimant was demoted for three written warnings within a 12-month period. The final incident occurred on May 22, 2011 when the claimant acted unprofessional during a tornado warning. The employer witness could not offer any testimony on exactly what the claimant said and did that was unprofessional. Consequently, there is insufficient evidence to establish the demotion was due to work-related misconduct.

The law presumes a claimant has left employment with good cause when he quits because of a change in the contract of hire. 871 IAC 24.26(1). However, in order to show good cause for leaving employment based on a change in the contract of hire, an employee is required to take the reasonable step of informing the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). The employer was not willing to make any accommodations for the claimant and he had no other options.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated July 13, 2011, reference 01, is affirmed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs