

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHELLEY KITSIS**  
Claimant

**APPEAL NO. 08A-UI-00479-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 12/09/07 R: 02  
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated January 7, 2008, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 7, 2008. Claimant participated. Employer participated by Barbara Frazier-Lehl, Unemployment Insurance Service, Employer Representative, with witnesses Jeff Killam, Knoxville Store Director; Mark Halbmaier, Boone Store Director; Paul Herrmann, Staff Pharmacist, Knoxville; and Pete Bilden, Manager Pharmacy, Boone.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on November 29, 2007. Claimant worked at Boone Hy-Vee as a full time staff pharmacist. Employer had overstaffed the pharmacy. Claimant was told that she no longer had a job because they were overstaffed. Employer contacted the Knoxville Hy-Vee pharmacy to secure an interview. Claimant was not guaranteed a job at Knoxville but was guaranteed an interview. The Knoxville Hy-Vee believed they would hire claimant but never actually spoke to claimant to offer her a job. Claimant lived in the Des Moines Beaverdale area which was a 55 minute drive to Boone Iowa. Claimant would drive 80 minutes from Beaverdale to Knoxville.

Claimant was not told at the time of hire that she would need to transfer to a new location per employer's needs.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a layoff due to overstaffing. The transfer to Knoxville was speculative.

Employer had secured an interview for claimant at the Knoxville Hy-Vee location but not a job. This is not a quit of the Knoxville job but a layoff of the Boone job. Furthermore, the change in location required a longer commute, change in schedule and volume of work which is a significant change in the contract of hire. Benefits allowed.

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.

**DECISION:**

The decision of the representative dated January 7, 2008, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/pjs