

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSIE OCHANPAUGH
Claimant

APPEAL NO: 09A-UI-02795-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES REGISTER & TRIBUNE
Employer

OC: 12/28/08
Claimant: Appellant (2)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Josie Ochanpaugh (claimant) appealed an unemployment insurance decision dated February 11, 2009, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with the Des Moines Register & Tribune (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 31, 2009. The claimant participated in the hearing. The employer participated through Theresa Allen, Compensation HRIS Programs Manager. 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 her 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 inside sales representative from June 4, 2007 through December 1, 2008. Due to budget constraints, the claimant's full-time sales position was eliminated and she was only given part-time sales work and had to work part-time writing obituaries. The claimant was trained in November and took over the new duties on December 1, 2008. She rarely had to work weekends when working full-time in sales but her obituary duties now required her to work weekends. The claimant made a good faith effort with the new job duties but became frustrated since she would be the only individual working on the weekends and she ran into some problems. She voluntarily quit her employment on January 2, 2009 due to a change in the contract of hire.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1. "Good cause" need not be based on fault or wrongdoing on the part of the employer, but may be attributable to the employment itself. Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956).

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 her employment on January 2, 2009 due to a change in the contract of hire. 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. In the case herein, the contract change required the claimant to regularly work weekends which she had not previously had to do very often.

The law presumes a claimant has left employment with good cause when she 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 claimant did discuss her problems with the employer but the employer was unable to accommodate her. The voluntary quit was therefore with good cause attributable to the employer and benefits are allowed.

DECISION:

The unemployment insurance decision dated February 11, 2009, reference 01, is reversed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css