

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN M MEEK
Claimant

APPEAL NO. 13A-UI-07339-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEATON INC
Employer

OC: 05/19/13
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 12, 2013, (reference 02) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on July 24, 2013. Claimant participated. Employer participated through Kathy Frerichs, Controller and Erica Long, District Manager.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

FININGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a shift supervisor beginning on September 5, 2011 through April 11, 2013 when she voluntarily quit. The claimant had been promoted to a shift supervisor sometime in December 2012. While the parties disagree about the number of raises she had been given and her starting pay, it is clear that both the claimant and Ms. Long both believed that the claimant would be given some type of raise for assuming additional duties as shift manager. The two had never spoken about the amount of the raise, but Ms. Long did admit that the claimant's raise "had fallen through the cracks." The claimant was entitled to receive a raise and did not get one. The claimant contacted numerous managers at the restaurant and had at least two of them e-mail Ms. Long. In March 2013 the claimant had another manager Jesse Sheer send Ms. Long an e-mail asking when the claimant could expect the pay raise she had been promised but had yet to receive. By April 11, 2013 the claimant believed she had waited long enough for her raise. All of the e-mails sent to Ms. Long have been deleted by the employer's system before the hearing date. A coworker Ms. Beatty texted Ms. Long and told her that if the claimant did not get a raise from \$7.75 per hour to \$9.00 per hour she was going to quit. Ms. Long said no, and the claimant quit. The claimant was under no obligation to go over Ms. Long's head to obtain the pay raise promised by Ms. Long.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

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(23) 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:

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

In the absence of an agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving employment. *Deshler Broom Factory v. Kinney*, 140 Nebraska 889, 2 N.W.2d 332 (1942). In general, a substantial pay reduction or 25 to 35 percent reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. EAB*, 433 N.W.2d 700 (Iowa 1988). The administrative law judge is persuaded that Ms. Long promised the claimant a pay raise, then unintentionally forgot about it or as she said it fell through the cracks. The claimant had numerous other managers send e-mails on her behalf. The claimant was promised a raise she did not receive; such circumstances are good cause attributable to the employer for the claimant quitting the job. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The June 12, 2013 (reference 02) decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css