

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASMINE M LEVI
Claimant

JOHN DEERE COMPANY
Employer

APPEAL 19A-UI-05714-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/23/19
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant, Jasmine M. Levi, filed an appeal from the July 18, 2019 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision which denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 9, 2019. The claimant participated. The employer, John Deere Company, did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time in the shipping department and was separated from employment on June 25, 2019, when she quit the job without notice. Continuing work was available.

When the claimant began the employment in April 2018, she was informed that staffing and shifts were determined by seniority, and subject to change. The claimant worked the third shift for approximately one year, which was from 10:30 p.m. to 5:00 a.m. Then in April or May 2019, she was reassigned to the second shift which was from 10:00 a.m. until 6:30 p.m. The claimant wanted to have her days free for her own appointments and for a monthly medical appointment for her infant son. The claimant stated she could not coordinate her appointments for first thing in the morning and still make it to work by 10:00 a.m. She had been recently tardy and disciplined for her attendance. She decided to quit in anticipation of an upcoming personal appointment she had.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

Iowa Admin. Code r. 871-24.26(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 has the burden of proof to establish she quit with good cause attributable to the employer. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25. "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

While the employer is certainly entitled to make personnel decisions based upon its needs, that need does not necessarily relieve it from potential liability for unemployment insurance benefit payments. The employer did not attend the hearing to refute the credible evidence presented by the claimant. In this case, the claimant was reassigned based upon business needs to the second shift from the third shift. There was no evidence presented that the change was disciplinary in nature or was intended to be temporary. The administrative law judge is persuaded that an unrequested change in shift from overnights to days is substantial inasmuch as it would affect childcare, doctor's appointments and family matters. Based on the evidence presented, the administrative law judge concludes the claimant quit the employment with good cause attributable to the employer due a substantial change in the contract in hire. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The July 18, 2019 (reference 01) initial decision is reversed. The claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn