

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VALERIE NEHMAN
Claimant

APPEAL NO: 13A-UI-12373-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN CRANE INC
Employer

OC: 10/06/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 31, 2013 reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 26, 2013. The claimant participated in the hearing. The employer did not respond to the hearing notice by providing a phone number where it could be reached at the date and time of the hearing as evidenced by the absence of its name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The employer did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant voluntarily left her employment for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production lead for American Crane from March 8, 2004 to September 30, 2013. During the morning meeting September 30, 2013, the claimant was notified she was being demoted to a compressor rebuilder, one of the least desirable jobs in the shop. As a production lead, the claimant had been told by management in the past to demote other employees to the worst positions when the employer wanted the employee to quit. Four other employees had been assigned to work as compressor rebuilders in the last year and of the four, three quit and one was discharged. The claimant quit as a result of the demotion. She had not yet been told if her wages or hours would be affected.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

While the claimant was moved to a different position that may well have been a demotion, she did not wait to see if there would be any change in her hours and/or wages. Additionally, although the employer may have used this as a tactic in an attempt to cause employees to quit in the past, there is not enough evidence to reach that conclusion in this case because the claimant does not know if there would have been a change in her hours and wages and exactly what her job duty changes would be. Inasmuch as there is no proof the claimant would suffer a change in the number of hours or wages of the original terms of hire, the job duty change cannot be considered substantial. The claimant has not met her burden of proving that her separation from employment was attributable to a change in her contract of hire as that term is defined by Iowa law. Consequently, benefits must be denied.

DECISION:

The October 31, 2013, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs