

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN L PERRY
Claimant

APPEAL NO. 17A-UI-11082-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PACKERS SANITATION SERVICES INC
Employer

OC: 10/01/17
Claimant: Respondent (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 20, 2017, reference 03, decision that allowed benefits to the claimant provided he was otherwise eligible and that held the employer's account could be charged for benefits, based on the claims deputy's conclusion that the claimant voluntarily quit on September 25, 2107 for good cause attributable to the employer, based on a change in the contract of hire. After due notice was issued, a hearing was held on November 17, 2017. Claimant Steven Perry did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. Marissa Rowen represented the employer. Exhibits 1 and 2 were received into evidence. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and of the fact-finding materials.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the employer's account may be charged for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Steven Perry was employed by Packers Sanitation Services, Inc. (PSSI) as a full-time first shift manager/supervisor from March 29, 2017 until September 20, 2017, when he voluntarily quit in response to an impending substantial change in the conditions of his employment. Mr. Perry last performed work for the employer on September 20, 2017. Mr. Perry performed his work duties at a Tyson plant in Waterloo. Mr. Perry's weekly salary was \$900.00. Mr. Perry's work hours were 6:00 a.m. to 3:30 p.m. At the time, Mr. Perry left the employment, his position as first shift manager/supervisor was about to end. The employer's contract with the Tyson plant for first and second shift services was set to expire on September 30, 2017. If Mr. Perry desired to continue with the company beyond September 30, 2017, he would have had to either accept a demotion and transfer to the third shift or become part of the employer's support crew and travel around the state of Iowa to various sites serviced by PSSI. On September 25, 2017, the

employer documented a separation from the employment based on Mr. Perry's failure to appear for work on September 21, 22 and 23, 2017.

Mr. Perry established an original claim for unemployment insurance benefits that was effective October 1, 2017 and has received unemployment insurance benefits. PSSI is Mr. Perry's most recent base period employer for purposes of the claim.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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.

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.

"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.* An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See *Olson v. Employment Appeal Board*, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The evidence in the record indicates that Mr. Perry voluntarily quit the employment for good cause attributable to the employer and based on substantial changes in the conditions of the employment. These changes included an impending demotion, an impending reduction in wages, an impending change in shift and/or an impending change in work location. Mr. Perry is eligible for benefits in connection with the original claim that went into effect October 1, 2017, provided he meets all other eligibility requirements. The employer's account may be charged.

DECISION:

The October 20, 2017, reference 03, decision is affirmed. The claimant quit the employment for good cause attributable to the employer, based on substantial changes in the conditions of the employment. The separation date was September 20, 2017. The claimant is eligible for benefits in connection with the October 1, 2017 original claim provided he is otherwise eligible. The employer's account may be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs