

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARCY L TRIMBLE
Claimant

ARCH INC
Employer

APPEAL 14A-UI-05334-GT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/20/14
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(1) – Voluntary Quitting – Change in Contract of Hire

STATEMENT OF THE CASE:

The Claimant filed an appeal from the May 13, 2014, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on June 12, 2014. Claimant participated and was represented by Attorney Heather L. Carlson. Employer participated through Executive Director Pamela Hoogheem.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a Director of Professional Services and was separated from employment on April 23, 2014. Claimant had worked for employer since June 30, 2009. Claimant was approached by Ms. Hoogheem on April 7, 2014 and was told she was not a good “fit” in her current position. Claimant at that point thought her employment was terminated. Ms Hoogheem later provided claimant a written proposal for transition and severance outlining claimant's termination from the company. The termination was not immediate, but gave no discharge date. Ms. Hoogheem would not give claimant a chance to receive training or time to learn new skills, and did not warn claimant that her employment was in jeopardy prior to this date. The proposal called for claimant to continue performing tasks for the employer, and then be terminated as soon as a replacement could be found. Claimant was in a supervisory position. She found it very difficult to perform her job as a director supervising subordinates as she was being “transitioned” out of the company. On April 23, 2014 Ms. Hoogheem told claimant that she needed to tell all the staff what was happening. Claimant did not know what to do or how to function as she was being pushed out of the company because Ms. Hoogheem thought she was not capable of functioning as a supervisor. She did not know how to explain to her subordinates that she was either being fired or demoted Ms. Hoogheem gave claimant an option to stay with the company, but at a lower rate of pay and responsibility. Claimant did not

want to leave her employment, but given the change in circumstances and her options she felt that she needed to end her employment at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave 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.

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.

In general, a substantial pay reduction of 25 to 35 percent or a similar reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Since there was no disqualifying basis for the demotion or the termination, the quit because of the change in contract of hire was with good cause attributable to the employer. Inasmuch as the claimant would suffer a change of pay, responsibilities, reputation and ability to lead subordinates, and employer has not established misconduct as a reason for the effective demotion, the change of the original terms of hire is considered substantial. Employer's actions resulted in a loss of status. Claimant would become a coworker among people she previously supervised. Her loss of supervisory, management, and administrative authority and duties is considered a substantial change in contract of hire. Thus, the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The May 13, 2014, (reference 01) decision is reversed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/can