

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES R COBB
Claimant

DGS-ACQUISITIONS LLC
Employer

APPEAL 16A-UI-06845-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/29/16
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving - Layoff
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 16, 2016, (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 7, 2016. Claimant participated. Employer participated through Ryan Halverson, Store Director. Claimant's Exhibit A was entered and received into the record.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time beginning on June 23, 2015 through June 5, 2016. The claimant worked only at the employer's Waukee location during the entire time of his employment. The employer shut down their Waukee store at the end of May 2016. While the claimant worked for them at the Waukee location he worked daytime hours only, accrued vacation benefits, had health insurance benefits, was paid \$13.50 per hour and earned \$1.00 per hour premium pay for hours he worked on Sundays.

After the employer decided to shut down the store where the claimant worked, he was asked if there were any other locations he would be willing to work at. The claimant chose two other stores that were near his home in Adel. He was not offered any jobs at either of the two stores he chose.

In late May the claimant was offered a transfer to the Fleur Drive Store to a full-time position as the courtesy counter manager. The job would have included some nighttime hours where he would be required to work until 10:00 p.m. when the store closed. The claimant refused the position because his driver's license is restricted to no nighttime driving due to his cataracts. The claimant had not worked any nighttime hours at the Waukee location.

After he refused the full-time position, the claimant was offered a part-time position that would not require he work past 7:00 p.m. at night. The part-time job would have reduced his pay from \$13.50 per hour to \$12.50 per hour, he would at most be able to work 30 hours per week, his premium pay would have been reduced fifty cents per hour, he would no longer be given health insurance benefits or vacation or paid time off.

The claimant initially said he would accept the transfer then after reviewing the details determined that the change in the pay, benefits, hours as well as the distance from his home made the position unacceptable. On June 5, the day he was to begin the new position, the claimant voluntarily quit.

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. EAB*, 433 N.W.2d 700 (Iowa 1988).

The claimant was going to be transferred through no fault of his own due to the employer's choice to shut down the store where he worked. A claimant is not automatically expected to accept any transfer offer. While the claimant may have initially accepted the transfer, within a matter of days, before he even worked one day at the new store, he realized the transfer would amount to a substantial loss in pay and benefits. The claimant did not acquiesce to any of the changes made by the employer. The loss of pay, hours, benefits; including no vacation or health insurance benefits, amounts to a substantial change in the claimant's contract of hire which are attributable to the employer. Under these circumstances, the claimant's voluntary quitting was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The June 16, 2016, (reference 03) decision is reversed. The claimant voluntarily left his 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/pjs