

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JAMES COPELAND**  
Claimant

**NORTH CEDAR TRUCKING LLC**  
Employer

**APPEAL 20A-UI-12855-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated October 12, 2020, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 9, 2020. Claimant participated. Employer participated through Partner Diane Poduska and Partner Holly Poduska.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds:

Claimant first worked for South Cedar Trucking as a part-time truck driver on March 15, 2015. Diane Poduska hired claimant for a route that ran six days a week from 3:00 a.m. to 7:00 a.m. with Mondays off. This was with the understanding that claimant takes care of his elderly mother who has osteoarthritis. When his mother has doctor's appointments at 9:00 am appointment, claimant could get her there on time.

On March 4, 2020, Partner Matt Poduska contacted claimant by phone. He was just guessing 3:00 a.m. to 9:00 a.m. six days a week. Since it was a brand new route and a brand new run it could be longer. Claimant maintains Matt Poduska knew claimant would not work those hours because of his elderly mother.

On March 29, 2020, claimant quit because he could not work the new route proposed by Matt Poduska due to his caretaking obligations to his mother.

On March 30, 2020, Matt Poduska offered claimant the opportunity of being a lead driver meaning any days that he wanted on the route and they would figure out coverage with other drivers. Matt Poduska offered claimant one or two days a week and figure it out with another driver. Claimant was not interested in only working one or two shifts per week.

The employer has become aware claimant currently works a shift for another trucking company from 2:00 a.m. to 9:00 a.m. after separating from employment.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the employee left without good cause attributable to the employer.

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.

A 25 percent to 35 percent reduction in working hours is, as a matter of law, a substantial change in the contract of hire. A substantial pay reduction creates good cause attributable to the employer for a resignation. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988). If the employer significantly changes the worker's hours or type of work, the change is characterized as substantial. If the employer significantly changes the worker's hours or type of work, the change is characterized as substantial.

In this case, claimant contends his voluntary quit falls under the provision above because the employer changed his hours. This situation does not fall within the first category because claimant's hours would have increased under the new route. A change in shift times and an increase in hours could warrant a voluntary quit. The hours proposed by the employer in this case would not be substantial for most truck drivers in claimant's position.

Iowa Admin. Code r. 871-24.25(23) provides:

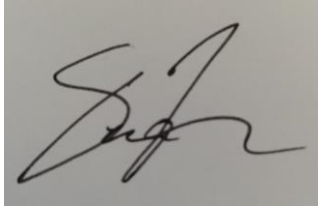
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (23) The claimant left voluntarily due to family responsibilities or serious family needs.

Instead, claimant has a unique circumstance with taking care of his mother that makes this change an issue. Claimant left because his availability was unduly restrictive due to his ongoing caretaking functions in relation to his mother. This is a cause not attributable to his employer.

**DECISION:**

The representative's October 12, 2020, (reference 01) is affirmed. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.



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Sean M. Nelson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 725-9067

January 5, 2021  
Decision Dated and Mailed

smn/mh

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.