

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

BECKY L SMITH
Claimant

APPEAL NO: 19A-UI-03254-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIRST RESOURCES CORP
Employer

OC: 01/06/19
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 10, 2019, (reference 04) unemployment insurance decision that denied benefits based upon her February 4, 2019 permanent separation with this employer. (The reference 04 decision amended the reference 03 decision which allowed benefits.) The parties were properly notified about the hearing. A telephone hearing was held on May 8, 2019. The claimant participated personally. The employer did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. Claimant Exhibit A was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit the employment with 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 part-time as a practitioner and was separated from employment on February 4, 2019, when she quit the employment.

When the claimant was hired, she had a full-time caseload, which involved her clients voluntarily completing sessions with her. Despite her best efforts, the claimant struggled to have her clients complete their sessions and in November 2018 was demoted to part-time in response to her unsatisfactory performance. The employer replaced the claimant's position with a new, full-time employee. From November to February 2019, the claimant tried to increase her hours, which had been reduced from full-time to 10-20 hours per week. When the employer refused to give her new clients, she sought other part-time employment that would guarantee her 29 hours per week.

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 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.

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 reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. EAB*, 433 N.W.2d 700 (Iowa 1988).

Employer did not attend the hearing. Employer has not met the burden of proof to establish that claimant acted deliberately or negligently in her duties as a full-time practitioner, which led to a permanent demotion as a part-time practitioner. Thus, the employer has not established that the demotion was related to any incident of misconduct. Inasmuch as the claimant suffered a reduction in job responsibilities and salary through no fault of her own, the change of the original terms of hire is considered substantial. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The April 10, 2019, (reference 04) 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.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn