

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAULA G MORTON
Claimant

APPEAL NO. 07A-UI-10449-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KINSETH HOTEL CORPORATION
Employer

OC: 10/07/07 R: 03
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated November 5, 2007, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 29, 2007. Claimant participated. Employer participated by Michele Hawkins, Hearing Representative TALX and Natalee Moore, General Manager. Exhibit One was admitted into evidence.

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 last worked for employer on September 24, 2007. Claimant worked full time hours during the day. Claimant from June 2006 through September 5, 2007 worked daytime hours. Claimant did deviate from the day schedule a couple times per month. Claimant asked to have her schedule reduced to 32 hours per week because of her mother's illness. Claimant was given a varied schedule which did not include primarily daytime hours. Claimant asked about continued family medical leave for the one day per week that she needed off to care for her mother. The employer said she could try for FMLA but that the schedule would not change from what was written. Claimant could not work the new schedule due to her mother's illness. Employer refused to accommodate claimant's request for FMLA and allow a reduction in hours to 32 for the daytime shift.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a change in the contract of hire. Employer did not accommodate claimant's request for a change in hours. Employer significantly deviated from the schedule to the point that claimant had no choice but to quit. Employer's failure to heed claimant's request for FMLA for the one day a week is also good cause for a quit. The change in work hours is

more significant than the normal two day a month deviation. This is a quit for cause attributable to employer because of a significant change in the contract of hire.

Iowa Code section 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.

871 IAC 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.

DECISION:

The decision of the representative dated November 5, 2007, reference 02, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css