

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLY E GONZALES
Claimant

APPEAL NO. 15A-UI-02469-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 01/25/15
Claimant: Appellant (2)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Kelly Gonzales filed a timely appeal from the February 19, 2015, reference 02, decision that disqualified her for benefits and that relieved the employer of liability for benefits, based on an Agency conclusion that she had voluntarily quit on December 25, 2015 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 27, 2015. Ms. Gonzales participated. Andrew Lica, Store Manager, represented the employer. The hearing in this matter was consolidated with the hearing in Appeal No. 15A-UI-02470-JTT. Exhibits One, Two, and Three were received into evidence. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Kelly Gonzales was employed by Casey's as a part-time cashier from August 2014 until December 25, 2015 when she voluntarily quit due to a substantial reduction her work hours. Throughout the employment, the employer had scheduled Ms. Gonzales to work 35 hours per two-week pay period. At the beginning of December 2014, Ms. Gonzales requested every other Friday off so that she could attend medical appointments regarding her pregnancy and the employer acquiesced in the arrangement. When the employer posted the work schedule for the pay period that was to start December 28, 2015, the employer had reduced Ms. Gonzales' work hours to only six hours for the pay period. Ms. Gonzales notified the employer that she could not survive on so little hours and was quitting the employment.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. Id. An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The employer's decision to reduce Ms. Gonzales' work hours effective December 28, 2015, from 35 per pay period to six per pay period, constituted a substantial change in the conditions of the employment. Ms. Gonzales quit the employment for good cause attributable to the employer. Accordingly, Ms. Gonzales is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The February 19, 2015, reference 02, decision is reversed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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