

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN L WILLIAMS
Claimant

APPEAL NO. 13A-UI-03118-JT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GAVIN INSURANCE AGENCY
GAVIN, JOE
Employer

OC: 02/10/13
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 6, 2013, reference 01, decision that denied benefits. The employer requested an in-person hearing. After due notice was issued, an in-person hearing was held in Des Moines on April 23, 2013. Claimant Karen Williams participated. Shiela Lepley, Office Manager, represented the employer. Exhibits 1 through 11, 17 through 20, A, B and C were received into evidence.

ISSUE:

Whether Ms. Williams' 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: Karen Williams was employed by Gavin Insurance Agency as a full-time customer service representative from 2001 until February 7, 2013, when she voluntarily quit in response to a reduction in her hourly wage.

On January 31, 2013, Joe Gavin, Owner, provided Ms. Williams with a written memo that included the following:

Due to the evolvement and reorganization of Gavin Insurance Agency, we will no longer allow your Personal Health Insurance Policy premiums to be taken via EFT from the Corporate Checking account effective March 1, 2013. You need to make payment arrangements with your bank and Personal Health Insurance Provider starting with your March payment.

Furthermore, your hourly wage will be changed to \$12.00 per hour effective February 7, 2013. This change will be reflected on the pay date of 02/14/2013. After careful review and consideration of the Personal Lines Book, we have found this wage supports the profitability of our Personal Lines Business.

Prior to issuance of the January 31, 2013 memo, Ms. Williams' hourly wage had been \$21.00. Ms. Williams had been at that wage since February 2012. Ms. Williams had gone to that wage after she inherited accounting duties from another employee. Prior to January 31 memo, the employer had deducted \$4.00 per hour from that wage to pay Ms. Williams' health insurance premium. Ms. Williams had a private health insurance policy through Farm Bureau. The policy predated her employment with Gavin Insurance. Ms. Williams had been diagnosed with cancer in 1995 and needed to continue the policy with Farm Bureau to remain insured. Prior to January 31, 2013, the employer had contributed an additional amount toward Ms. Williams' health insurance policy over and above the \$4.00 deducted from her wage. In the January 31 memo, the employer put Ms. Williams on notice that effective March 1, 2013, she would need to pay for her Farm Bureau insurance policy through her personal checking account, rather than through a payroll deduction.

Mr. Gavin and Brad Rudolph had decided on the wage cut. The wage cut was based primarily on a decline in revenue being generated by the employer's personal lines insurance business. Ms. Williams was licensed in personal home, health, auto, and umbrella insurance. The wage cut followed the employer's hiring of Sheila Lepley in October 2012. The employer hired Ms. Lepley as office manager and with the intention of having her assume responsibility for the accounting. Ms. Williams provided training to Ms. Lepley with regard to the accounting duties. Ms. Williams had not requested to cease performing the accounting duties. The wage cut followed Ms. Williams' leave of absence from November 22, 2012 to January 18, 2013. Ms. Williams was gone from work for that period so that she could undergo and recover from surgery. Ms. Williams returned to work part time on January 18, 2013. Prior to announcement of the wage cut, both parties anticipated that Ms. Williams would return to her full-time customer service representative duties within a couple weeks of her return to work.

The decision to reduce Ms. Williams' wage was not based on any misconduct on the part of Ms. Williams.

One January 23, 2013, Mr. Gavin had sent a broadcast email concerning personal health insurance. Ms. Williams was unsure at that time what impact the change would have on her. Ms. Williams attempted to contact Mr. Gavin to discuss the impact on her, but was unable to make meaningful contact with Mr. Gavin. The impact became clear with the January 31, 2013 memo.

REASONING AND CONCLUSIONS OF LAW:

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.

"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).

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.

The evidence in the record establishes that Ms. Williams voluntarily quit in response to the employer decision to reduce her effective wage from \$21.00 per hour to \$12.00 per hour. The proposed change was substantial. It amounted to a 43 percent reduction in pay. Ms. Williams' voluntary quit was for good cause attributable to the employer. Accordingly, Ms. Williams is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The agency representative's March 6, 2013, reference 01, decision is affirmed. 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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