

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BOBBIE J HARDER**  
Claimant

**APPEAL NO. 07A-UI-04548-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HOME DEPOT USA INC**  
Employer

**OC: 04/08/07 R: 04  
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Home Depot USA, Inc. (employer) appealed a representative's April 25, 2007 decision (reference 01) that concluded Bobbie J. Harder (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 22, 2007. The claimant participated in the hearing. Cindy Petersen appeared on the employer's behalf and presented testimony from one other witness, Sydney Scherling. Based on the evidence, the arguments of the parties, 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 for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on November 1, 2004. She worked full time as a receiving associate/return to vendor clerk in the employer's Clinton, Iowa, store. Her last day of work was April 9, 2007. She voluntarily quit as of that day. Her reason for quitting was that her schedule had been altered so that she was being required to spend half of her time doing receiving, including working a closing shift of 12:30 p.m. to 9:30 p.m. two or three days per week, rather than spending all of her 40 hours handling the return to vendor work.

Since beginning her employment, the claimant had only ever done the return to vendor work, and had always been on a 7:00 a.m. to 4:00 p.m., Monday through Friday schedule. Since about the beginning of March the employer shifted the claimant's schedule and responsibilities to half receiving with the periodic closing shifts. The employer assured the claimant that new personnel would be hired and trained, but as of April 9 she had seen no sign of a new employee, whom she would normally have trained, and the new schedule showed her working two or three closing nights per week for at least the next two and a half weeks. She had

become very frustrated with the backlog that was building in both the receiving and return to vendor areas due to the splitting of time, but when she requested to be returned strictly to the prior return to vendor responsibilities, she was advised that she could not be returned to that schedule, that she was on an open schedule to suit the employer's business needs. She then determined that the change in schedule and responsibilities was more than she could take, and resigned.

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

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

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.

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.

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988); Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). A “contract of hire” is merely the terms of employment agreed to between an employee and an employer, either explicitly or implicitly; for purposes of unemployment insurance benefit eligibility, a formal or written employment agreement is not necessary for a “contract of hire” to exist, nor is it pertinent that the claimant remained an “at will” employee. While the employer had a good business reason for making the changes to the claimant’s schedule and responsibilities, the changes in her duties and schedule which had been implemented were a substantial change in the claimant’s contract of hire. Dehmel, supra. Benefits are allowed.

**DECISION:**

The representative's April 25, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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