

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHY A HAHN
Claimant

APPEAL NO. 13A-UI-02731-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 02/03/13
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Advance Services filed a timely appeal from a representative's decision dated March 6, 2013, reference 02, which held claimant eligible to receive unemployment insurance benefits finding that the claimant quit work due to a change in the contract under which she was hired. After due notice was provided, a telephone hearing was held on April 3, 2013. The claimant participated personally. The employer participated by Mr. Michael Payne, Loss Prevention Specialist.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Kathy Hahn began employment with Advance Services, Inc. on August 13, 2012. Ms. Hahn was assigned to work as a data entry worker at the client CDS Global in Harlan, Iowa. Subsequently, Ms. Hahn accepted a change to a position of customer sales representative on November 19, 2012 at the same client location.

Ms. Hahn left her assignment and her employment with Advance Services after being informed by a representative of Advance Services of a schedule change, changing the claimant from full to part-time work requiring the claimant to work later at night and to work every Saturday. At the time of hire, Ms. Hahn agreed that she would be available for every other Saturday on the full-time assignment. The claimant considered the change to a part-time worker and a requirement that she work every Saturday to be a substantial change in the agreement of hire and left employment.

It is the employer's position that the change was not so substantial as to give the claimant good cause for leaving and that the claimant had at times worked in the evenings in the past.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant left employment with good cause attributable to the employer. She did.

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.

In this matter Ms. Hahn left her employment with Advance Services after being informed of a substantial change in the original agreement of hire. At the time of hire the claimant accepted a full-time, long-term assignment at the client company. Although the claimant was willing to work every other Saturday she was not willing to work every weekend and stated that condition at the time that she was hired.

Ms. Hahn showed flexibility in being willing to accept some changes in the original agreement of hire. The claimant agreed to learn telephone sales work at the client location in order to continue her employment but left her employment after being informed that her hours would be reduced to part time, that she would have to work late into the evenings and would have to work every Saturday.

The administrative law judge concludes based upon the evidence in the record that the change in the claimant's working hours, her full-time status and the requirement that she work every weekend was a substantial change in the original agreement of hire between the parties and provided the claimant good cause for leaving that was attributable to the employer. Unemployment insurance are allowed providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated March 6, 2013, reference 02, is affirmed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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