

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

LORI J HARVEY
702 – 14TH ST
CORNING IA 50841

CARE INITIATIVES
c/o JOHNSON & ASSOCIATES
PO BOX 6007
OMAHA NE 68106-6007

Appeal Number: 05A-UI-06968-LT
OC: 06-12-05 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Iowa Code §96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

Employer filed a timely appeal from the June 29, 2005, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on July 25, 2005. Claimant did participate. Employer did participate through Dan Boor and Ann Tippins and was represented by Lynn Corbeil of Johnson & Associates.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time (five days per week) administrator at the Corning facility through May 31, 2005, when she quit. On April 21, Dan Boor, divisional director, asked claimant to take responsibility for a second facility in Bedford either permanently or in the interim while he found someone to do so. Boor verbally offered her an additional \$100.00 for mileage per week.

When asked, Boor said she would not be able to go back to her original arrangement as administrator only at Corning unless the resident census increased. He told her both facilities have strong department heads and it would be easy to run both. No option of retaining the status quo was provided. He asked claimant to get back to him by April 22.

On April 22 claimant responded that she would not take on an additional facility with new directors and insufficient staff without more money. She said she would have to have \$20,000.00 per year for any permanent duties added and she did not think \$100.00 per week for the interim position was sufficient either. Boor said he would look into the matter and respond by April 26. Claimant investigated further and found that the activity coordinator walked out of the Bedford facility and there was not a DON on staff either and the office manager was leaving. The state had a previous issue in a survey with the Corning facility for low staffing which claimant had brought to Boor's attention.

Claimant also found out that the State of Iowa regulations require three – eight hours days at each of two facilities so she would have had to increase her hours to six days per week. In either event, claimant's administrator's license would be posted at both facilities. Boor did not tell claimant her license would be posted at Bedford, that she could refuse either offer, or that he would find additional help for her from another facility administrator. Claimant also had questions for Shar, who did not get back to her by April 29, so she gave 30 days' notice.

In spite of Boor's happiness with claimant's job performance and his surprise at her resignation, he did not contact her thereafter to discuss the two offers or her reasons for the separation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment with good cause attributable to the employer.

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 general, a substantial pay reduction of 25 to 35 percent reduction of working hours creates good cause attributable to the employer for a resignation. Dehmel v. EAB, 433 N.W.2d 700 (Iowa 1988).

Since Boor did not offer claimant the ability to retain the status quo with her job but presented the offer to her as either taking responsibility for both facilities either permanently or in the interim until he found someone to do so permanently, claimant was reasonable in thinking her job would change no matter what her decision. Certainly she was reasonable to believe her options were limited after Boor told her that she would not be able to return to her original position unless the census were to increase. Inasmuch as the claimant would suffer a significant increase in her job duties, minimum days of work, and risk to her administrator's license without a commensurate increase in pay, the change of the original terms of hire is considered substantial. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The June 29, 2005, reference 01, decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

dml/kjw