

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARGARET A FOX
Claimant

APPEAL NO. 11A-UI-08936-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HEALTH SERVICES - IOWA CORP
Employer

OC: 06/05/11
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated June 29, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 29, 2011. Claimant participated. Employer participated by Angela Faber, human resources, and Linda Fuerst, clinical coordinator. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on May 27, 2011. Claimant worked day hours for eight years. Two years ago employer unilaterally changed claimant to afternoon/evening shifts half the time. In April of 2011 employer increased the afternoon shifts to six of ten. Claimant did not want to work additional afternoon shifts due to family issues. Claimant asked employer to not assign afternoon shifts.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a change in the shifts worked. Employer unilaterally increased the number of afternoon shifts worked. This change is a significant change in the contract of hire. Claimant did not agree or ask for the change in shifts two years ago nor in April. Claimant tried to work with employer for two years, which is commendable. Claimant had every right to quit two years ago. Instead, claimant tried to hang in and work the altered shifts. The extra day was too much and qualifies as a significant change in the contract of hire. This is good cause attributable to employer for a quit. Benefits allowed.

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.

DECISION:

The decision of the representative dated June 29, 2011, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw