

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEXANDER E THOMPSON
Claimant

APPEAL NO. 12A-UI-06472-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARDINAL CONSTRUCTION INC
Employer

OC: 05-06-12
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 23, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 17, 2012. The claimant did participate. The employer did participate through Angie Joerger, Field Office Manager. Employer's Exhibit One was entered and received into the record.

ISSUE:

Did the claimant voluntary quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a laborer full time beginning in May 30, 2006 through April 16, 2012 when he voluntarily quit. In December 2011 the employer changed the way employees would be paid by eliminating an hourly labor premium called 'travel pay' that employees earned when they had to travel to a job site more than twenty-five miles from the warehouse. Initially only one job site was impacted by the suspension of 'travel pay.' On April 16 the employer notified the employees, including the claimant that two new job sites would include travel pay. The claimant was assigned to work at the job site that did not include travel pay. He voluntarily quit because he no longer wanted to continue working at the job sites that did not include travel pay. In the employer's handbook employees are promised travel pay for jobs that are more than twenty-five miles from the warehouse. The claimant was treated differently than some of the other employees. Employees were not allowed to pick and chose which job sites they would work on. Because the employer's handbook promised travel pay and because other employees were going to be paid travel pay, the claimant chose to quit when he was not treated the way some other employees were and when the employer deviated from what was the past practice and what was described in the handbook.

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 or a similar reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. EAB*, 433 N.W.2d 700 (Iowa 1988). The claimant was being treated differently than other employees in that he was not going to be paid travel pay and others would be paid the travel pay. The Administrative Law Judge concludes the change of the original terms of hire is considered substantial and does give rise to good cause attributable to the employer for the claimant quitting. Thus the separation was with good cause attributable to the employer and benefits are allowed provided the claimant is otherwise eligible.

DECISION:

The May 23, 2012 (reference 01) decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs