

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHIRLEY M JOHNSON
Claimant

APPEAL NO. 13A-UI-13724-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHOPKO STORE OPERATING CO LLC
Employer

OC: 11/17/13
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 6, 2013, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on January 8, 2014. Claimant Shirley Johnson participated. Heather Heit represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant.

ISSUE:

Whether Ms. Johnson's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Shirley Johnson worked at the Pamida store in New Hampton as a full-time pharmacy tech when ShopKo Stores Operating Company, L.L.C., purchased and began operating the store as ShopKo. Ms. Johnson continued as a ShopKo employee until November 14, 2013, when she voluntarily quit. Ms. Johnson's immediate supervisor at the time of her quit was pharmacist Heather Heit. Ms. Heit had just joined the store at the end of September 2013. Ms. Johnson was responsible for nursing home billing and customer billing. Another pharmacy tech, Rebecca Schilling, was responsible for accounts receivables. Ms. Schilling had been responsible for accounts receivable for about a year. Ms. Johnson had never been responsible for accounts receivable prior to November 2013.

During November 2013, Ms. Heit discovered systemic problems with the accounts receivable records. Ms. Heit and Jeff Boltjes, Pharmacy Regional Manager, attributed the problems with the accounts receivable records to Ms. Johnson's billing practices. After ShopKo had taken over the provider store, Ms. Johnson had continued with the same billing practices she had used as a Pamida employee. Ms. Johnson had not been trained to do otherwise. Ms. Heit and Mr. Boltjes were of the belief that the prior primary pharmacist had not adequately supervised pharmacy operations. Those billing practices that Ms. Johnson had used for years did not mesh well with Shopko's electronic bookkeeping system.

In November 2013, Mr. Boltjes decided that Ms. Johnson should be assigned the monumental task of combing through a filing cabinet full of billing receipts and an additional box full of billing receipts to uncover and correct the systemic errors in the accounts receivable. Ms. Johnson had no training in such work. The employer made no training available to Ms. Johnson so that she could perform the work. When Ms. Johnson asked for training, Mr. Boltjes directed her to read a book. The employer expected Ms. Johnson to continue to perform her regular duties while she straightened out the accounts receivable. Confronted with a new, monumental project for which she had no training, Ms. Johnson elected to quit the employment.

In making the decision to leave the employment, Ms. Johnson also considered interpersonal differences she had with Ms. Heit. Ms. Johnson attributed those differences to the difference in age between Ms. Johnson and Ms. Heit. Ms. Johnson had concluded early on that Ms. Heit did not like her, but that Ms. Johnson liked Ms. Schilling.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

871 IAC 24.25(22) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (22) The claimant left because of a personality conflict with the supervisor.

Ms. Johnson's personality conflict with Ms. Heit did not constitute good cause attributable to the employer justifying a quit.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a

resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. Id. An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The evidence in the record establishes intolerable and detrimental working conditions and a substantial change in the contract of hire that would prompt a reasonable person to leave the employment. Both issues arise from the employer's decision to assign to Ms. Johnson the monumental task of straightening out the employer's accounts receivable issues. The employer expected Ms. Johnson to take primary responsibility for fixing the accounts receivable issues despite the fact that Ms. Johnson had no training or experience in accounts receivable. The employer, at best, intended to defer such training and have Ms. Johnson suffer through the impossible task in the meantime. The employer's actions do have the appearance of punishing Ms. Johnson for past errors she had unwittingly made, which errors were due to the employer's failure to provide her with adequate training in ShopKo practices. When Ms. Johnson requested assistance, the Regional Pharmacy Manager gave the flip directive to read a book. Ms. Johnson reasonably concluded that the employer was trying to motivate her to quit the employment.

Ms. Johnson voluntarily quit the employment for good cause attributable to the employer. Accordingly, Ms. Johnson is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The Agency representatives December 6, 2013, reference 01, decision is affirmed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs