

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**KATIE A FLORES**  
Claimant

**HILLCREST FAMILY SERVICES**  
Employer

**APPEAL 23A-UI-04456-PT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/26/23  
Claimant: Appellant (2)**

---

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871-24.26(1) – Voluntary Quitting – Change in Contract of Hire

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated April 25, 2023, (reference 02) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was held on May 16, 2023. Claimant participated personally. The employer participated through Human Resources Specialist Antita Jani. Claimant's Exhibits A and B and Employer's Exhibits 1 and 2 were admitted into evidence. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Whether the claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 14, 2023. Claimant's employment ended on March 24, 2023, due to a substantial change in the terms and conditions of claimant's employment.

Claimant began working for employer as a full-time registered nurse in the employer's walk-in crisis center in August 2022. When claimant was initially hired, the employer informed claimant that she would work three twelve-hour shifts per week for a total of thirty-six hours each week. As a registered nurse, claimant assisted medical providers and provided medical care to patients who came to the crisis center. Claimant agreed to the terms and conditions of employment.

On March 9, 2023, the employer informed claimant that it had failed to secure funding for the crisis center for the next fiscal year and that claimant's job would be ending on March 24, 2023. The employer offered claimant two alternative positions. The first was as a registered nurse at a residential care facility providing medical care to residents and assisting residents with their daily living. That position had similar pay and hours to the claimant's position at the crisis center. The second position involved traveling to patients' homes and filling out insurance

paperwork. The second position offered the same pay, but would require claimant to work from 8:00 a.m. to 5:00 p.m. Monday through Friday.

The claimant turned down the position at the residential care facility because the job duties were different from the type of work she enjoyed and she had concerns about her safety, as an employee at the facility had recently been attacked. Claimant was interested in the second position, but due to her family responsibilities, would not be able to work an 8:00 a.m. to 5:00 p.m. Monday through Friday schedule.

After the meeting, claimant emailed the employer and asked whether it would be possible to change the schedule for the second position to three twelve-hour shifts each week. On March 22, 2023, the employer informed claimant that the schedule for the second position could not be changed and that claimant would be required to work from 8:00 a.m. to 5:00 p.m. Monday through Friday if she accepted the position. The employer gave claimant until noon on Friday, March 24, 2023, to let the employer know whether she was accepting the position. The claimant did not respond to the employer and the employer determined that claimant voluntarily quit her position effective March 24, 2023.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(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. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related

health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). A refusal to accept a night shift position at a sanitarium constitutes a good cause quit attributable to the employer when that shift would endanger the claimant's health. *Forrest Park Sanitarium v. Miller*, 333 Iowa 1341, 11 N.W.2d 582 (Iowa 1943).

Claimant was not required by law to give her employer notice of her intent to quit and the changes to the terms of hire was substantial. Claimant agreed to work three twelve-hour shifts per week providing medical care to patients at the employer's crisis clinic. The first position the employer offered claimant involved different job responsibilities at a new work location that claimant felt was unsafe. The second position involved significantly different job duties and a work schedule that conflicted with claimant's other responsibilities. Taken together, the proposed changes to claimant's hours, shifts, location of employment, and job duties are a substantial change in the terms of employment. Claimant has met the burden of proof to show she quit with good cause attributable to the employer. Benefits are allowed.

**DECISION:**

The April 25, 2023, (reference 02) unemployment insurance decision is reversed. The claimant voluntarily left employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.



---

Patrick B. Thomas  
Administrative Law Judge

May 22, 2023  
Decision Dated and Mailed

pbt/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: eab.iowa.gov**

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.

**AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or 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.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.