

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARELENE K DOWD
Claimant

APPEAL NO. 11A-UI-14829-H2

**ADMINISTRATIVE LAW JUDGE
DECISION**

NURSEFINDERS OF DES MOINES
Employer

**OC: 10-23-11
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(1) – Voluntary Leaving - Change in Contract of Hire
Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 10, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 10, 2012. The claimant did participate. The employer did not participate.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer or was she discharged due to job-connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a staffing coordinator, part-time, beginning in August 2004 through September 23, 2011, when she was discharged. The claimant worked from home as the staffing coordinator. Her daughter was employed at the same time as the office manager. The claimant's daughter was discharged on suspicion of theft, and shortly thereafter the claimant's access to the computer was cut-off. She needed computer access to perform her job duties. She normally worked in the office on Tuesdays and Fridays and from home during the rest of the week. After her access to the computer was cut off, the claimant spoke to her direct supervisor. She was asked if she could prevent her daughter from accessing the employer's information while she worked at home. The claimant assured the employer she could and would not let any non-employee have access to the employer's computer. The employer refused to put her back to work. While the claimant was paid for 27 hours each week thereafter, she was not allowed to work at all. She was asked to turn in her keys to the office and the employer would no longer allow her access to the office. She voluntarily quit when it became apparent the employer was not going to allow her to return to work because they did not trust her, due to her daughter's discharge.

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 § 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). A claimant is not generally required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). The employer essentially discharged the claimant after they discharged her daughter for suspected theft. The claimant was not allowed access to the computer, nor was she allowed access to the office after her keys were taken away. There is no evidence to support a conclusion that the claimant was going to allow her daughter access to the employer's work site or their computer. There is no evidence that the claimant committed any misconduct at all. She was simply related to another employee that the employer chose to discharge. Since there was no disqualifying basis for the employer's refusal to allow the claimant to continue working, the quit because of the change in contract of hire was with good cause attributable to the employer. Thus, the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The November 10, 2011 (reference 01) decision is reversed. The claimant voluntarily left her 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/kjw