

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORRI A HOLLOWAY
Claimant

APPEAL NO: 14A-UI-03540-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OFENBAKH LAW FIRM PLLC
Employer

**OC: 03/02/14
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(1) – Change in Contract for Hire

STATEMENT OF THE CASE:

The employer appealed a department decision dated March 24, 2014, reference 01, that held the claimant voluntarily quit with good cause attributable to the employer on March 4, 2014, and benefits are allowed. A telephone hearing was held on April 23, 2014. The claimant participated. Julia Ofenbakh, Owner/Attorney, and witness, Attorney, Matthew Shimanovsky, participated for the employer.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on July 1, 2012, and last worked for the employer as a full-time paralegal on March 4, 2014. Claimant was hired as part time at \$13.00 an hour, fifteen to twenty weekly hours with the understanding her work hours would gradually increase. At the time of employment separation, claimant was earning \$14.00 an hour and working thirty-eight to forty hours each week.

On March 4, 2014 owner/attorney Ofenbakh called claimant into an office conference. She advised claimant she was reducing her hours and pay due to work performance deficiencies. Claimant objected to the reductions and stated she would file for unemployment. Claimant stated she was giving two-week notice of quitting and Ofenbakh responded you are done now. Claimant left and there was no further communication between the parties.

Attorney Ofenbakh did not intend to terminate claimant's employment pre-conference. The employer had not previously issued any written discipline to claimant for work performance deficiencies. The employer offered numerous examples of claimant work performance issues during the rebuttal testimony phase of the hearing.

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.

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.

The administrative law judge concludes claimant voluntarily quit with good cause attributable to the employer on March 4, 2014 due to a substantial change in her contract for hire.

The employer did not discharge claimant from employment. Although it was intending to reduce her work hours and pay, it terminated claimant after she stated she was giving two-week notice that is intent to quit employment. While the employer has the right to reduce work hours and pay absent a written employment agreement, this action caused claimant to quit and the issue is whether it is for good cause.

The claimant's employment contract became full-time weekly hours (thirty-five to thirty-eight) from part-time employment (fifteen to twenty), and a pay increase from \$13.00 to \$14.00 an hour. The employer statement to claimant it was reducing her hours and pay constitutes a good cause change for quitting employment.

The employer sought to emphasize the claimant work performance deficiencies in response to her allegation she was terminated. The employer failed to consider the employer termination was accepting the voluntary quit without requirement claimant work the two-week notice period. The offer of evidence for work performance deficiencies is not relevant to the claimant quitting her job.

DECISION:

The department decision dated March 24, 2014, reference 01, is affirmed. The claimant voluntarily quit with good cause attributable to the employer on March 4, 2014. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css