

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN D DIRKS
Claimant

APPEAL NO. 08A-UI-04122-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ORIENTAL TRADING CO
Employer

**OC: 03-16-08 R: 01
Claimant: Appellant (2)**

871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 22, 2008, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on May 21, 2008. The claimant did participate. The employer did not participate.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a shipper, full-time, beginning July 2, 2007, through March 14, 2008, when he voluntarily quit.

The employer was going to close the doors of the local Glenwood, Iowa, facility. They offered the employees, including the claimant, a transfer to one of two facilities located in the Omaha area. The Glenwood facility required the claimant to commute for ½ hour. Either of the two Omaha facilities would have required the claimant to engage in an hour to an hour and one-half commute one way. The claimant did not accept the transfer, because he could not afford the lengthy commute. No additional work was available for the claimant at the Glenwood facility after March 14, 2008.

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). No further work was going to be offered to the claimant at the Glenwood facility where he was hired and had always worked. The claimant could not move to either Omaha facility to work, because it would have required he triple his commute time. With his wages and the price of gasoline, the claimant could not afford such a change in the work location. Inasmuch as the claimant would suffer a substantial change in his commuting time and increased commuting costs, the change of the original terms of hire is considered substantial. Thus, the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The April 22, 2008, reference 02, 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/kjw