

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER J RANDALL
Claimant

DOLGENCORP LLC
Employer

APPEAL 16A-UI-06405-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/01/16
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:

The claimant filed an appeal from the June 6, 2016 (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit his employment by refusing to continue working. The parties were properly notified of the hearing. A telephone hearing was held on June 22, 2016. The claimant, Christopher J. Randall, participated. The employer, Dolgencorp, L.L.C., did not answer when called at the hearing time and did not participate in the hearing.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time, most recently as a key sales associate, from August 2015 until this employment ended on May 15, 2016, when he voluntarily quit.

The employer hired a new store manager who began managing claimant's store in early May 2016. This manager began making numerous changes to claimant's job duties. Claimant was no longer allowed to count down his own cash drawer, and he was not allowed to "damage out" any merchandise. Additionally, the manager would unload trucks and put the new merchandise directly on the floor, rather than putting it in containers. This created a tripping hazard. Claimant testified that this manager tried to have him demoted but claimant fought the demotion and won. Claimant would not have been fired or laid off if he had not quit on May 15, 2016.

Claimant also testified that his hours had been reduced. Prior to the new manager coming in, claimant was working approximately 28 hours per week. After the new manager came in, claimant was only working eight hours per week. Claimant was hired as a part-time employee and he was not guaranteed any set amount of hours when hired.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are withheld.

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.

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 recently 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).

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Here, claimant chose to leave his employment after his employer dramatically reduced this weekly hours. This reduction in hours reduced claimant's weekly pay. The employer did not participate in the hearing and provide evidence to challenge claimant's statements or justify its actions. Thus, claimant's separation from his employer was with good cause attributable to the employer.

DECISION:

The June 6, 2016 (reference 03) unemployment insurance decision is reversed. The claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

Elizabeth Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/can