IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

LACEY B ORE Claimant **GENESIS DEVELOPMENT** Employer	**APPEAL 18A-UI-00720-LJ-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 12/03/17** **Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 8, 2018, (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant quit her employment due to family responsibilities. The parties were properly notified of the hearing. A telephone hearing was held on February 8, 2018. The claimant, Lacey B. Ore, participated and was represented by Jonathan Law, Attorney at Law. The employer, Genesis Development, did not register a telephone number at which to be reached 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 full-time, most recently as a med manager and community support staff, from September 2006 until December 22, 2017, when she quit. At the time, claimant was on medical leave. She was scheduled to return to work on December 31. Claimant notified the employer that she would not be returning after her medical leave ended. Claimant chose to quit her employment in part because of the work environment. Staff members were rude to her and were making snide comments to her about her mother being in trouble with the employer.

Claimant also quit her employment because the employer changed her schedule. Since 2012, claimant had worked daytime shifts for the employer. Claimant was assigned to one work location and worked from either 6:00 a.m. to 2:00 p.m. or 8:00 a.m. to 4:00 p.m. Claimant had family responsibilities that required her to work first shift, and she also had another job during the summer evenings. The employer was aware that claimant had these schedule restrictions. On December 19, claimant was notified that her schedule had changed and she was told to come in and review it. Claimant discovered that she had been moved to the 4:00 p.m. to midnight shift. She was also offered a part-time janitorial position and a full-time float position with varying hours, only some of which were first-shift hours. Claimant had never worked as a janitor for the employer in the past. Claimant quit rather than accepting one of these alternate positions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant quit her employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.26(1) provides:

> The following are reasons for a claimant leaving employment with good cause attributable to the employer:
>
> 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 claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

In this case, the employer substantially changed claimant's work hours. She had been working full-time first-shift hours only for the past five years. Upon her return from medical leave, she would have been working either second-shift hours or part-time hours, depending on which position she selected. The employer knew claimant had family responsibilities that prevented her from working second-shift hours. Claimant has established that she quit her employment due to a change in her contract of hire. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The January 8, 2018, (reference 02) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Elizabeth A. Johnson
Administrative Law Judge

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Decision Dated and Mailed

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