IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

HARVEY WOODY
Claimant

PER MAR SECURITY & RESEARCH CORP
Employer

APPEAL NO: 11A-UI-13987-E

ADMINISTRATIVE LAW JUDGE DECISION

OC: 02-27-11
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 19, 2011, reference 03, decision that denied benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, before Administrative Law Judge Julie Elder on November 29, 2011. The claimant participated in the hearing. Shauna Schroeder, Human Resources Representative and Chad Bentzinger, Program Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time security officer for Per Mar Security & Research from March 18, 2011 to September 8, 2011. He was assigned to work at Ankeny High School. The school district built a new high school which opened at the beginning of the 2011-2012 school year. The previous high school was on one level with gyms and locker rooms on a lower level. The new school is a two story facility. During the previous school year the claimant was allowed to sit at one post for access control for most of the day. The new building required that the claimant stand, walk and climb stairs a major portion of the day. The claimant has a medical condition that causes extreme pain in his knees and feet when walking or standing for any length of time. The school year began August 15, 2011, and the claimant began complaining that his job duties were causing him too much pain. The employer began actively looking for a replacement for the claimant August 25, 2011, and found one who was ready to start September 8, 2011. The employer tried to call the claimant September 7, 2011, to let him know it found a replacement for him and that it would like to meet with him September 9, 2011, at 10:00 a.m. but was unable to reach the claimant so it told the site supervisor to give him the message. The claimant called the employer the afternoon of September 9, 2011, and asked what was going to happen and the parties set another meeting for 2:00 p.m. September 12, 2011. Program Manager Chad Bentzinger was called away before the meeting and asked the operations manager to speak with the claimant about his employment situation. When the

claimant arrived for the meeting and was told Mr. Bentzinger was unavailable but the operations manager would be up shortly to meet with him the claimant chose to leave without speaking to the operations manager. The claimant later spoke to Mr. Bentzinger and asked if he still had a job and was told that was between the operations manager and the claimant. The claimant had told Mr. Bentzinger he wanted another assignment but required full-time, daytime, weekday hours only. The claimant has not performed any further work for the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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.

The claimant was hired to work in a one story building at the old high school in Ankeny and was allowed to sit a major portion of the day. The new building was two stories and required much more standing, walking and climbing stairs. The new high school resulted in a change in the claimant's contract of hire as the conditions and requirements of his job changed and he could not perform the job due to the pain the new job duties caused in his knees and feet. Although the claimant was obstinate in refusing to meet with the operations manager to talk about a new assignment after he complained about his assignment and was replaced at the new building, the administrative law judge must conclude the change in the essential functions of his job were such that there was a substantial change in his contract of hire. Therefore, benefits must be allowed.

DECISION:

The October 19, 2011, reference 03, 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.

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Julie Elder
Administrative Law Judge

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Decision Dated and Mailed

je/css