

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LIYA M DONALSON
Claimant

APPEAL NO. 20A-UI-07014-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BURLINGTON CARE CENTER INC
Employer

OC: 03/15/20
Claimant: Appellant (2)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Liya Donalson filed a timely appeal from the June 22, 2020, reference 02, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Donalson voluntarily quit on March 15, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on August 3, 2020. Ms. Donalson participated and presented additional testimony through Angela Shipley. Vicki Irvin, Chief Operating Officer, represented the employer. Exhibits 1, A and B were received into evidence.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Liya Donalson was employed by Burlington Care Center, Inc. as full-time Certified Nursing Assistant from 2013 until March 23, 2020, when she voluntarily quit in response to substantial changes in the employment. From the start of the employment until March 17, 2020, Ms. Donalson worked at the employer's facility in Burlington. Ms. Donalson was assigned to the 6:00 a.m. to 2:30 a.m. shift. Angela Shipley, Director of Nursing, was Ms. Donalson's supervisor. Ms. Donalson is the parent of three minor children, ages 11, 10 and 5 years old. Ms. Donalson is the only adult in the home. Ms. Donalson has at all relevant times resided in Burlington. Ms. Donalson's work schedule and the proximity of Ms. Donalson's home to the workplace in Burlington made it possible for Ms. Donalson to fulfill her parental duties, with little time to spare. Ms. Donalson was able to transport her children to daycare in the morning and to collect her children from school in the afternoon. Ms. Donalson did not reside far enough from her children's schools to qualify for free school bus service. Ms. Donalson's 10-year-old has special needs that made it essential that he be transported to and collected from school.

On March 11, 2020, the employer notified employees, including Ms. Donalson, that effective March 18, 2020 all employees from the Burlington facility would commence working at the employer's Mount Pleasant facility, 30 miles away. There were structural issues in the

Burlington facility that necessitating vacating that facility until structural renovations could occur. The employer anticipated that the Burlington staff would have to work from the Mount Pleasant facility for four to six months before they could return to working at the Burlington facility. A number of Burlington employees elected to leave the employment, rather than commence commuting to and working from the Mount Pleasant facility.

The employer's announcement threw Ms. Donalson and her family into an immediate state of crisis. Her work hours were to be the same at the Mount Pleasant facility, meaning that she would have to begin her commute at 5:30 a.m. or earlier and would no longer be able to collect her children from school. Ms. Donalson inquired whether her childcare provider could assist with collecting the children from school, but the childcare provider declined. Ms. Donalson contacted the school district to inquire about using the school bus, but the district advised there would be an \$80.00 to \$90.00 fee per child per quarter, which placed that option out of Ms. Donalson's financial reach. Even if the children had been able to use the bus, the bus would have dropped the children a number of blocks from the daycare and would have placed Ms. Donaldson's 10-year-old and five-year-old at risk. Ms. Donalson remained in conversation with Ms. Shipley regarding possible solutions, but there were no good solutions. Ms. Shipley advised Ms. Donalson that she could start later than 6:00 a.m. at the Mount Pleasant facility, but that she would have to stay later to make up the time. Nonetheless, Ms. Donalson reported for work at the Mount Pleasant facility on March 18, 2020. Ms. Donalson and the other Burlington employees received a hostile reception from the Mount Pleasant staff, which extended to the residents who had been transported to the Mount Pleasant facility. Ms. Donalson received a cursory orientation to the protocols and equipment, which different substantially from the Burlington facility. Ms. Donalson completed her shift on March 18 and returned to Burlington to learn that a couple children at the daycare had been running a fever. Ms. Donalson called in an absence on March 19, 2020. On March 23, 2020, Ms. Donalson notified the employer that she would not be returning to the employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the

employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

Iowa Administrative Code rule 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:

24.26(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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. *Id.* An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See *Olson v. Employment Appeal Board*, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The evidence in the record establishes a March 23, 2020 voluntary quit for good cause attributable to the employer. The employer unreasonably discounts the substantial detrimental impact the change of workplace had on Ms. Donalson and her ability to parent her children, as was her moral and legal duty. Requiring Ms. Donalson to start reporting for work 30 miles further from her home was by itself a substantial change in the conditions of the employment that would have provided an employee without Ms. Donalson's responsibilities good cause to quit the employment. The detrimental impact on Ms. Donalson was exponentially greater, due to her parental responsibilities and family circumstances. The substantial changes included not only the increased distance between Ms. Donalson and her children for much of the day, but also a time disruption that had an equally negative impact on Ms. Donalson's ability to fulfill her parental duties. The employer belatedly offers up proposed solutions that were not offered to Ms. Donalson at the time of her employment and which bring with them another set of hardships, like being away from her children on the weekend and having to secure and pay childcare on the weekend. Ms. Donalson was under no obligation to acquiesce in the changed conditions of the employment. Ms. Donalson is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The June 22, 2020, reference 02, decision is reversed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

September 16, 2020
Decision Dated and Mailed

jet/scn