

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELANIE FORRY
Claimant

APPEAL NO: 16A-UI-07191-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CBE COMPANIES INC
Employer

OC: 05/29/16
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 21, 2016 reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 19, 2016. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Toni Babcock Director of Human Resources; Carrie O'Brien, Manager of Operations; and Chelsea Powers, previous Supervisor of Operations; participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her 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 quality control specialist for CBE Companies from February 13, 2012 to June 1, 2016. On May 31, 2016, the employer notified the claimant it was moving her from her position as a quality control specialist to a position as a front line collector. The claimant previously worked 8:00 a.m. to 4:30 p.m. Monday through Friday. In her new position she would have worked 8:00 a.m. to 4:30 p.m. three days per week, 12:30 p.m. to 9:00 p.m. two days per week, and one Saturday per month. The claimant's wages would have increased by \$2.00 per hour. The employer decided to move the claimant because it was waiting to hear if it received a contract and consequently there was not as much inventory which resulted in a lack of work. Additionally, the claimant was chosen based on her low six-month performance average.

The claimant objected to the move because she had allergies which made it difficult to hear out of one ear and also because she did not want to work weekends due to her religious beliefs. The employer offered her a two-sided headset and the claimant indicated she would try that. The employer told the claimant she would have to discuss her weekend hours with the director of operations. The claimant stated she wanted to talk to her husband and would then talk to the director of operations. Later that day the claimant indicated she needed to leave early due to a family emergency. On June 1, 2016, the claimant met Manager of Operations Carrie O'Brien in

the break room when she arrived for work and gave Ms. O'Brien her badge and said she was voluntarily quitting her job. Ms. O'Brien asked her if she wanted to wait for the manager of operations and human resources and the claimant declined.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

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.

The employer moved the claimant from a clerical position to a collections position with completely different duties and different hours, including one weekend shift per month. While the wages would have been higher, the claimant did not wish to move to the position of front line collector, due in part to a hearing issue and in part because her religious beliefs precluded her from working Saturdays. Inasmuch as the claimant would suffer a significant change in her hours and duties from her most recent position with the employer, the administrative law judge must conclude the changes were substantial. Consequently, benefits must be allowed.

DECISION:

The June 21, 2016, reference 02, decision is affirmed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs