

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALEJANDRA MARTINEZ
Claimant

APPEAL 21A-UI-02849-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FBG SERVICE CORPORATION
Employer

**OC: 07/26/20
Claimant: Respondent (1)**

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire
Iowa Code § 96.3-7 – Overpayment
871 IAC 24.10 – Employer Participation in the Fact-Finding Interview

STATEMENT OF THE CASE:

FBG Service Corporation (employer) appealed a representative's December 30, 2020, decision (reference 03) that concluded Alejandra Martinez (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 11, 2021. The claimant did not provide a telephone number and, therefore, did not participate in the hearing. The employer was represented by Thomas Kuiper, Hearings Representative, and participated by Andrea Jordan, Internal Manager. The administrative law judge took official notice of the administrative file.

ISSUE:

The issues include whether the claimant was separated from employment for any disqualifying reason, whether the claimant was overpaid benefits, and which party should be charged for those benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer three times. Her last period of employment was from January 6, 2020, through July 27, 2020. She started out at a location where she worked nights and asked for a transfer. The employer offered her a move to Grandview on February 3, 2020, as a full-time cleaner working 5:00 a.m. to 1:00 p.m. at \$11.00 per hour. She accepted the position.

On July 27, 2020, the employer told the claimant that as of July 28, 2020, she would work at Orchard Place from 8:00 a.m. to 2:00 p.m. at \$14.00 per hour. The employer had no other work for the claimant except the part-time position. The claimant did not appear for work after July 27, 2020, and did not accept the part-time position.

A fact-finding interview was scheduled for December 29, 2020, at 3:15 p.m. The fact-finder called the employer at the number provided but the offices were closed. The fact-finder interviewed the claimant and used information from the employer's SIDES form

The claimant filed for unemployment insurance benefits with an effective date of July 26, 2020. Her weekly benefit amount was determined to be \$424.00. The claimant received benefits from August 2, 2020, to the week ending March 6, 2020. This is a total of \$5,177.00 in state unemployment insurance benefits after July 26, 2020. She also received Federal Pandemic Unemployment Compensation.

REASONING AND CONCLUSIONS OF LAW:

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:

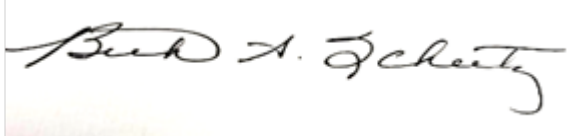
(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes 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.

A 25 percent to 35 percent reduction in working hours is, as a matter of law, a substantial change in the contract of hire. A substantial pay reduction creates good cause attributable to the employer for a resignation. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988). If the employer significantly changes the worker's hours or location, the change is characterized as substantial. In this case, there was a twenty-percent reduction in hours. The claimant's status went from a full-time to part-time employee. Her location of work was moved across the city. The increase in the claimant's hourly wage does not negate the change in the contract.

The claimant quit work because the employer made these significant changes. The employer substantially changed the claimant's contract for hire and, therefore, the separation was not voluntary. The claimant is qualified to receive unemployment insurance benefits provided she is otherwise eligible.

DECISION:

The representative's December 30, 2020, decision (reference 03) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

A handwritten signature in black ink that reads "Beth A. Scheetz". The signature is written in a cursive style and is positioned above a horizontal line.

Beth A. Scheetz
Administrative Law Judge

March 15, 2021
Decision Dated and Mailed

bas/scn