

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNIANN M SOUTHERN
Claimant

APPEAL NO. 11A-UI-03974-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HOSPITAL
Employer

**OC: 02/27/11
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 23, 2011 (reference 01) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on April 19, 2011. Claimant participated. Employer participated through human resources business partner, Jenni Grandgeorge and pharmacy department director, Greg Young.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked part-time as an inventory technician from November 11, 2009 and was separated from employment on March 4, 2011. Her job description changed from four days per two-week pay period except when covering vacations to working every third weekends effective March 1, 2011. She was unable to accommodate that change because of her original employment plans and her husband's work schedule. She spoke to Young several times at meetings and would have accommodated a week day schedule but employer would not work with her so she quit. She knew the plan was expected to be temporary but there was no assurance it would remain temporary after July 1, 2011.

REASONING AND CONCLUSIONS OF LAW:

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

While the administrative law judge is sympathetic to the employer's schedule flexibility needs, inasmuch as the claimant would suffer a significant change in her schedule for four months without assurance of returning to her historical work schedule, given her reliance on not working weekends so her husband could arrange his work schedule accordingly, the change of the original terms of hire is considered substantial. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The March 23, 2011 (reference 01) decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css