

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

NEAL A GRIFFITHS
Claimant

APPEAL NO. 15A-UI-05915-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JC TOLAND PAINTING LLC
Employer

OC: 08/31/14
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

JC Toland Painting (employer) appealed a representative's May 14, 2015, decision (reference 01) that concluded Neal Griffiths (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 scheduled for June 8, 2015. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Mike Briggs, Superintendent. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in 2012, as a full-time painting foreman. The claimant received the employer's handbook when he was hired. The employer talked to the claimant about performance issues but the claimant never signed for a warning. The claimant did not know his job was in jeopardy.

On May 4, 2015, the employer called the claimant to a meeting. The employer demoted the claimant to a painter and reduced his pay by \$2.00 per hour. The claimant refused the new job. The claimant told the employer he could not accept the new job because the pay was too low and he would have to quit. No other work was available with the employer.

The claimant filed for unemployment insurance benefits with an effective date of August 31, 2014. The employer did not participate at the fact-finding interview on May 13, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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.

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). In order to show good cause for leaving employment based on a change in the contract for hire, an employee is required to take the reasonable step of informing the employer about the change that the employee believes are substantial and that he intends to quit employment unless the conditions are corrected. The employer must be allowed a chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant did inform the employer of the substantial change at issue and that he intended to quit. The claimant gave the employer as much notice as the employer gave the claimant of the change. The claimant left work with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's May 14, 2015, decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css