

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROY R SALCEDO
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 17A-UI-09852-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/03/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Roy R. Salcedo (claimant) filed an appeal from the September 21, 2017, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit his employment with The University of Iowa (employer) when he refused to continue working which is not a good cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on October 12, 2017. The claimant participated personally. The employer did not respond to the hearing notice and did not participate. No exhibits were offered into the record.

ISSUE:

Did the claimant voluntarily quit the employment with 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 full-time as a Coordinator for Multi-Cultural Programs beginning in August 2011, and was separated from employment on August 10, 2017, when he quit.

In the spring of 2017, the employer began restructuring its Multi-Cultural Programs. The claimant had been responsible for supervising four different cultural centers, including the Asian Pacific Cultural Center. However, during the restructure the employer designated an Associate Director to handle the supervision of the four cultural centers, along with other job duties she had been previously assigned. The employer was unclear about what job duties the claimant would perform. However, the claimant remained employed and his job title, pay, and hours did not change.

In June 2017, the claimant was told that he and another member of the department would be moved to new job sites. On June 30, 2017, the claimant was moved to the Asian Pacific Cultural Center and was told he would be responsible for managing the center. This center was located on the other side of campus, approximately one mile from the claimant's other colleagues in the Iowa Memorial Hall.

Immediately following the move, the claimant then left on vacation. On July 6, 2017, the claimant's partner moved to the state of Washington. The claimant returned to work from his vacation on July 26, 2017. The claimant submitted his resignation the same day he returned, but did not provide a reason for his leaving in the email. The claimant's last day of work was August 10, 2017, and he moved to Washington the same day.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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.

Iowa Admin. Code r. 871-24.25 provides, in relevant part:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

...

(2) The claimant moved to a different locality.

...

(21) The claimant left because of dissatisfaction with the work environment.

...

(27) The claimant left rather than perform the assigned work as instructed.

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 claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

The claimant argues he voluntarily quit due to a change in his contract of hire. In general, a substantial pay reduction of 25 to 35 percent or a similar reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). However, an employer has the right to allocate personnel in accordance with the needs and available resources. The restructuring and change in the claimant's duties does not amount to a drastic modification in the type of work. The claimant may have been supervising fewer people and only one cultural program instead of four, but that is a minor change without an accompanying loss of pay or hours. Additionally, working from a facility on the other side of campus and being required to walk to another building for meetings is also a minor change in his routine. The claimant did not experience a change in his contract of hire that would make his voluntarily quit for good cause attributable to the employer.

Even if the claimant had experienced a change in his contract of hire, his argument that it was his primary motivation for leaving is not persuasive as he knew about the change in job duties beginning in the spring of 2017, and acquiesced to the changes by waiting until July 2017 to quit. Based on the timeline of events, the factor that changed in the claimant's life immediately preceding his decision to quit was his partner's move to Washington. The claimant followed his partner the same day he finished working for the employer. The claimant's decision to quit because he moved localities, disliked his work environment, and refused to perform work as assigned was not for good cause reasons attributable to the employer. Accordingly, benefits are denied.

DECISION:

The September 21, 2017, reference 01, unemployment insurance decision is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn