

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER R SMITH
Claimant

APPEAL NO: 14A-UI-03459-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEQUEL YOUTH SVCS OF WOODWARD
Employer

OC: 03/02/14

Claimant: Appellant (4)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Jennifer R. Smith (claimant) appealed a representative's March 19, 2014 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 22, 2014. The claimant participated in the hearing. Marcia Dodds appeared on the employer's behalf and presented testimony from one other witness, Trisha Godwin. During the hearing, Employer's Exhibit One was entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Modified. Benefits allowed.

FINDINGS OF FACT:

The claimant started working for the employer on October 8, 2012. She worked part time as a youth counselor. During the week she worked shifts from 3:00 p.m. to 11:00 p.m. She occasionally worked a third shift from 11:00 p.m. to 7:00 a.m. on weekends. Her last day of work was March 13, 2013. She voluntarily quit on March 25.

The claimant had been taken off work after March 13, 2013 due to some concerns regarding her professionalism. There was a corrective action plan given to her on March 22; the claimant felt that the employer was trying to persuade her to quit. The employer denied that it wished for the claimant to quit, but expected her to comply with the action plan.

On March 25 the claimant's supervisor contacted her to advise her of her schedule for the next week; she was scheduled for two weeknights from 11:00 p.m. to 7:00 a.m. The claimant

responded that the employer knew that she could not work these overnight shifts during the week because of being a single mother. When no change was made, the claimant sent the supervisor a message that she would go ahead and quit.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. A substantial change in contract of hire is recognized as grounds that are good cause for quitting that is attributable to the employer. 871 IAC 24.26(1). A “contract of hire” is merely the terms of employment agreed to between an employee and an employer, either explicitly or implicitly; for purposes of unemployment insurance benefit eligibility, a formal or written employment agreement is not necessary for a “contract of hire” to exist. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986).

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787 (Iowa 1956). While the employer may have had a good business reason for scheduling the claimant for a shift she had not previously worked during the week, the claimant had not worked these overnight shifts during the week in the past, and requiring her to do so was a substantial change in the claimant’s contract of hire. *Dehmel*, supra. Benefits are allowed.

DECISION:

The representative’s March 19, 2014 decision (reference 01) is modified in favor of the claimant. The claimant did voluntarily quit, but it was for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs