

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSHUA M TRYON
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL 21A-UI-14872-AR-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/11/21
Claimant: Appellant (4R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(12) – Voluntary Quit of Supplemental Part-Time Employment

STATEMENT OF THE CASE:

On June 30, 2021, the claimant, Joshua M. Tryon, filed an appeal from the June 28, 2021, (reference 02) unemployment insurance decision that denied benefits based on the determination that claimant quit employment with the employer, Casey's Marketing Company, without good reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on August 25, 2021. Claimant participated personally. The employer did not respond to the hearing notice and did not participate. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant quit employment without 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 part-time as a front-end customer service employee beginning in early September 2020, and was separated from employment on March 22, 2021, when he resigned.

Claimant obtained work through this employer via a personal contact with the purpose of supplementing his income. Claimant works full-time for another employer, as well. When claimant was hired by this employer, he was explicitly told he would be considered a part-time employee. However, for a number of months, he received full-time hours. In November 2020, the employer began cutting back hours due to the winter. Claimant's hours were reduced to approximately 20 per week. Then, in early 2021, claimant's hours were reduced to between four and six per week. Claimant approached his supervisor, Bill Scott, regarding the reduction in hours. Scott told him that corporate was requiring a reduction in total hours in the store, and because claimant was a part-time employee, he would only be receiving the minimum number of hours. Claimant could not continue working so few hours, so he resigned his employment.

The administrative record reflects that this employer is a supplemental employer, and that claimant was employed full-time elsewhere, at least while he was employed with this employer.

However, whether claimant's wages from this employer should be removed from his monetary determination of eligibility for unemployment benefits is not properly before the administrative law judge.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer. However, the separation is not disqualifying in and of itself, but the wages from the supplemental employer must be removed from claimant's monetary record.

Iowa Code § 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.

While claimant undeniably experienced a drastic reduction in hours, he was never guaranteed hours at his time of hire. Indeed, he acknowledged that he was hired with the explicit understanding that he was a part-time employee, not guaranteed full-time hours. In order for claimant to demonstrate that he experienced a change in the contract of hire, he must have demonstrated that he was guaranteed a certain number of hours at hire, which he has not done. An employer has the right to allocate personnel in accordance with the needs and available resources. *Brandl v. Iowa Dep't of Job Serv.*, No. 84-1913, 388 N.W.2d 677 (Iowa Ct. App. Jan. 29, 1986) (unpublished). Claimant has not demonstrated that he resigned as the result of a change in the contract of hire. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law.

While this separation may ordinarily result in disqualification, this employment was supplemental in nature. Whether claimant is monetarily eligible according to other base period wages is remanded for determination.

DECISION:

The June 28, 2021, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left his employment without good cause attributable to the employer; however, the separation itself is not disqualifying in this instance for the reasons outlined above.

REMAND:

The issue of claimant's eligibility for unemployment benefits based on other base period wages is remanded to the Benefits Bureau for a monetary redetermination consistent with this decision.



Alexis D. Rowe
Administrative Law Judge

August 31, 2021
Decision Dated and Mailed

ar/mh