

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARRIE L OSBORN**  
Claimant

**APPEAL NO. 14A-UI-02851-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WALGREEN CO**  
Employer

**OC: 08/25/13**  
**Claimant: Respondent (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 10, 2014, reference 02, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits. After due notice was issued, a hearing was held on April 7, 2014. Claimant Carrie Osborn participated. Derrick Markley represented the employer. The administrative law judge took official notice of the agency's administrative record of benefits disbursed to the claimant.

**ISSUE:**

Whether Ms. Osborn's voluntary quit was for good cause attributable to the employer. It was.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Carrie Osborn was employed by Walgreen Company in Council Bluffs from September 2013 until February 10, 2014, when she voluntarily quit due to a change in the conditions of employment. Ms. Osborn had accepted the employment with the understanding and agreement with the employer that the employment would be full-time, 40 hours per week, and that she would work primarily days. Ms. Osborn was without a car and walked to and from work. Throughout the employment, Ms. Osborn was consistently scheduled for 40 hours per week, consistently scheduled for only one evening shift from 2:00 p.m. to 10:30 p.m. per week, and consistently scheduled otherwise to work 9:00 a.m. to 5:30 p.m. Throughout the employment, Derrick Markley, Assistant Store Manager, was responsible for scheduling Ms. Osborn.

Things changed in February 2014 in response to the employer's need to cut labor hours. On the schedule that went into effective Thursday, February 13, 2014, the employer scheduled Ms. Osborn to work 32 hours per week, three evening shifts and one day shift. When Ms. Osborn saw the reduction in hours and change in shift, she went to Mr. Markley and protested both the change in shift and reduction in work hours. Mr. Markley declined to make any changes to the schedule he had created for Mr. Osborn. The new schedule, with the reduced work hours and evening shifts, were to become the new norm for Ms. Osborn unless and until the employer received a new labor budget that provided the store with additional labor

hours. Ms. Osborn did not appear for her February 12, 2014 shift, did not contact the employer, and did not return to employment.

### **REASONING AND CONCLUSIONS OF LAW:**

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

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.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. Id. An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The evidence in the record indicates substantial changes to the conditions of employer. Those changes include a 20 percent reduction in hours and pay, along with a substantial reduction in day shifts and substantial increase in evening shifts. The increase in evening shifts meant an increase in the number of evenings that Ms. Osborn would have to walk home in the dark and cold. Ms. Osborn voluntarily quit the employment for good cause attributable to the employer. Accordingly, Ms. Osborn is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

**DECISION:**

The claims deputy's March 10, 2014, reference 02, decision is affirmed. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs