

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHARON K SCHMIDT
Claimant

APPEAL NO. 09A-UI-00002-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAPLES CONTRACT & COMMERCIAL INC
Employer

**OC: 11-30-08 R: 01
Claimant: Respondent (1)**

871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 22, 2008, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on January 28, 2009. The claimant did participate. The employer did participate through (representative) Debi Anderson, Human Resources Consultant and Jennifer Treinen, General Manager.

ISSUE:

Did the claimant voluntarily quit her employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a process specialist full time beginning June 22, 1987 through November 17, 2008 when she voluntarily quit. The claimant quit because the employer was changing her job duties to include sales duties that she had not previously been required to perform. When the claimant was promoted to a process specialist she made it clear to the employer that she did not want the position if she were going to be required to engage in sales activities. The claimant was not required to engage in sales activities. On November 14, the claimant was told that her job duties were going to change in part due to the problems in the economy and that she would be required to engage in sales calls. The claimant quit rather than perform the new job duties. The claimant was going to be required to make cold calls and to sell product instead of just service the orders and assist the sales employees as she had in the past.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment 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.

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.

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. EAB*, 433 N.W.2d 700 (Iowa 1988). The claimant's job duties were going to be changed to include sales duties she had not previously been required to perform. The claimant was clear with the employer when she was promoted into her position that she did not want to engage in sales duties. The administrative law judge is not persuaded that the claimant had been required to engage in any prior sales duties and that she was ever given a new job description in June 2008. If the employer had given the claimant a new job description in June, there would have been no need for a meeting in November. The claimant was told in November that her job duties would change. The change in requiring the claimant to engage in sales duties, something she had not done in her over twenty years of employment, is a substantial change in the original terms of hire and is considered good cause attributable to the employer for the claimant leaving her employment. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The December 22, 2008, reference 01, decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css