

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNESSA A TIPTON
Claimant

APPEAL NO. 12A-UI-09076-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COSMOS SUNGLASSES INC
Employer

**OC: 04/24/11
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 20, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 26, 2012. Claimant participated. Employer failed to respond to the hearing notice and did not participate. Exhibit A was admitted into evidence. Employer called after the hearing was over to request participation. Employer failed to read and follow instructions on the hearing notice by calling in the name and number of a representative.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 9, 2012. Claimant asked to have weekends off but was still available to work week days. Claimant had been working week days and weekends since she started. Employer, instead of giving claimant weekends off, only scheduled claimant for weekends. Claimant was no longer given any weekdays of work. Claimant's hours were cut from 40 hours a week down to 9 hours a week.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a significant reduction in work hours. The reduction from 40 hours a week to 9 hours a week is a significant change in the contract of hire. This is good cause attributable to employer for a quit. Benefits allowed.

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.

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

DECISION:

The decision of the representative dated July 20, 2012, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Employer's request to reopen the record is denied.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs