

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STACEY L FORD
Claimant

APPEAL NO. 23A-UI-09214-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OREILLY AUTOMOTIVE INC
Employer

OC: 08/20/23
Claimant: Respondent (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

On September 28, 2023, the employer filed a timely appeal from the September 19, 2023 (reference 01) decision that allowed benefits to the claimant, provided the claimant was otherwise eligible, and that held the employer's account could be charged for benefits, based on the deputy's conclusion the claimant voluntarily quit on August 25, 2023 with good cause attributable to the employer. After due notice was issued, a hearing was held on October 13, 2023. Stacey Ford (claimant) participated. Joel Miller represented the employer. Exhibits 1 through 5 were received into evidence. The administrative law judge took official notice of the benefits that IWD has paid to the claimant (DBRO). The administrative law judge took official notice of the fact-finding materials for the limited purpose of determining whether the employer participated in the fact-finding interview.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Stacey Ford (claimant) was employed by O'Reilly Automotive, Inc. as a full-time Parts Specialist at the employer's Tipton store from November 2022 until August 25, 2023, when she voluntarily quit. From a week after the start of the employment until the end of June 2023, the claimant's work hours were 8:15 a.m. to 5:00 p.m., Monday through Friday. The claimant is single-parent to a high school student and accepted day-shift employment that would allow to be available to her daughter and for her daughter's school-related activities.

Toward the end of June 2023, the employer and the claimant entered into an agreement whereby the claimant became a keyholder, received a \$1.00 an hour raise, and agreed to work two evening shifts a week. The claimant's wage increased from \$12.00 to \$13.00 an hour. The claimant was under the belief that the two evening shifts per week arrangement was temporary. The employer was under the belief that the arrangement was permanent. Under the

arrangement the claimant worked her usual day shift hours three days a week and on two other days worked 11:00 a.m. to 8:00 p.m.

With the schedule that took effect July 31, 2023, Joel Miller, District Manager, commenced making the work schedule for the Tipton store. The employer eliminated the claimant's Monday through Friday 8:15 a.m. to 5:00 p.m. shifts, added a Saturday 11:00 a.m. to 8:00 p.m. shift and Sunday 9:00 a.m. to 6:00 p.m. shift, and otherwise scheduled the claimant for 11:00 a.m. to 8:00 p.m. The employer cites loss of staff and business needs as the basis for the changes. The employer deviated from this new schedule only when the employer deemed it necessary to have the claimant both open and close the store, on which days the claimant would be scheduled to work from 8:15 a.m. to 8:00 p.m. The claimant promptly challenged the new schedule. The claimant told the employer that the new work schedule interfered with her parental responsibilities. At the same time the employer implemented the scheduling changes, the employer commenced denying the claimant's requests for time off. For several months the claimant had requested and been granted time off so that she could transport her mother to and from medical appointments related to her mother's stage 4 cancer. The claimant took her concern about the schedule changes to the employer's corporate human resources staff. The claimant observed that on the final work schedule the employer had reduced her work hours from the 40 plus hours she had previously been scheduled to 31 weekly hours.

The claimant ultimately spoke with Mr. Miller on August 25, 2023. At that time, the employer told the claimant the employer was not going to accommodate the claimant's request for time off and was not otherwise going to amend the new work schedule. The claimant was at work and was an hour into her shift when she spoke to Miller. After speaking with the employer, the claimant left the workplace and did not return to the employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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.

“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).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The evidence in the record establishes an August 25, 2023 voluntary quit with good cause attributable to the employer due substantial changes in the conditions of the employment, as well as intolerable and detrimental working conditions. The changed conditions included elimination of the claimant's day-shift hours, a substantial increase in the number of evening work hours, and the addition of weekend shifts. The evening and weekend hours had a substantial negative impact on the claimant's parental responsibilities. In addition, on the final work schedule the employer substantially reduced the claimant's total work hours by one-fourth or more, which substantially reduced the claimant's wages from the employment. The employer's decision to impose a blanket denial of the claimant's request for time off so the claimant could assist her seriously ill mother was an additional substantial change in the conditions of the employment, as well as an intolerable and detrimental condition that would have prompted a reasonable person to leave the employment. The claimant quit in a timely manner, rather than acquiesce in the changed conditions of the employment. The claimant is eligible for benefits, provided the claimant is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The September 19, 2023 (reference 01) decision is AFFIRMED. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided the claimant is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.



James E. Timberland
Administrative Law Judge

October 16, 2023
Decision Dated and Mailed

JET/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.