

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER S DAVIS
Claimant

APPEAL NO. 12A-UI-11574-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORTH STAR EXPRESS LLC
Employer

OC: 09/02/12
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated September 20, 2012, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on October 22, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. John Greve, attorney at law, participated in the hearing on behalf of the employer with witnesses Bryn Pangburn and Jan Thompson. Exhibits One through Four were admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant was hired to work full-time for the employer as a cashier-cook in the convenience store in February 2010. When she applied for work, she stated that she was interested in working day hours on weekdays and could work occasional weekends. She started working from 10 a.m. to 6 p.m., but soon after she started, her schedule was changed to 8:30 a.m. to 4:30 p.m. on weekdays. She worked those hours through August 24, 2012.

After work on August 24, 2012, the owner of the business, Bryn Pangburn, notified the claimant that for business reasons, the claimant's hours were going to be changed to 1 p.m. to 6 p.m., Monday through Thursday, and 8:30 a.m. to 4:30 p.m. on Friday. If the claimant wanted to work any additional hours, they would be evening and weekend hours. Pangburn decided to change the claimant's hours because she was concerned that the food portions the claimant was giving to customers were too large and she was allowing customers to substitute items. She felt that she needed to monitor the claimant more.

She told Pangburn that she could not work the proposed schedule. The claimant objected to the change in her hours, because the proposed schedule reduced her hours unless she agreed to work evenings and weekends. She left employment that day and never returned.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

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.

The employer made a substantial change in the claimant's hours and schedule. The case law establishes that it "is not necessary to show that the employer acted negligently or in bad faith to show that an employee left with good cause attributable to the employer. . . . [G]ood cause attributable to the employer can exist even though the employer be free from all negligence or wrongdoing in connection therewith." Dehmel v. Employment Appeal Board, 433 N.W.2d 700, 702 (Iowa 1988). As a result, the claimant had good cause even though the change in her hours was due to business reasons. The claimant objected to the change in her hours and schedule, but the employer did not change the schedule, so the claimant quit. Good cause attributable to the employer has been shown in this case.

DECISION:

The unemployment insurance decision dated September 20, 2012, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw