

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAURA MAGANA DE ADAME
Claimant

APPEAL 18R-UI-06306-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CANCINO FAMILY FARM
Employer

**OC: 04/01/18
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 16, 2018, (reference 01) unemployment insurance decision that denied benefits based on her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on June 25, 2018. The claimant participated and testified. The employer did not participate.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time as a coffee laborer from January 15, 2018, until this employment ended on March 2, 2018, when she voluntarily quit. Claimant was living in Nebraska when the employer called and offered her work in Hawaii. Claimant told the employer she would need full time hours in order to be able to afford to move to Hawaii and support her family in Nebraska. Claimant was promised at least 40 hours per week. In reality, claimant found she was regularly getting around 22 hours of work per week and was never given a full 40 hours. Claimant spoke to the employer about this and was told her hours could not be increased at the time, but that more work might be available later in the season. Claimant explained she would have to resign if more work was not given and the employer indicated he understood.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment with good cause attributable to the employer.

Iowa Code §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.

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.

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. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Here, claimant was promised at least 40 hours per week of work. In reality, claimant found she was regularly getting around 22 hours of work per week. Claimant spoke to the employer about this and was told no additional hours were available. Claimant explained she would have to resign if more work was not given and the employer indicated he understood. As the reduction in hours was a result of lack of work, rather than any misconduct on behalf of the claimant, the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The April 16, 2018, (reference 01) unemployment insurance decision is reversed. The claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits withheld on this basis shall be paid.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs