IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

LINDA RUPE
Claimant

APPEAL NO: 08A-UI-09132-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONTRACT TRANSPORT INC
Employer

**OC: 02-10-08   R: 02
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 7, 2008, reference 06, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 23, 2008. The claimant participated in the hearing. Jean Nible, Corporate Treasurer and Jennifer Helton, Office Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time administrative assistant for Contract Transport from July 24, 2008 to September 12, 2008.   The claimant was not meeting the employer's expectations with regard to speed and learning the payroll aspects of her job so she continued to work at the first training level as a data clerk. The employer did not warn the claimant about her job performance and she was not aware it was concerned about her ability to perform all aspects of the job. On September 11, 2008, the employer met with the claimant and told her she could become a full-time data clerk and take a $2.00 per hour pay decrease or face termination. It told her she could consider the proposal over the weekend but on September 12, 2008, the claimant told the employer she would not accept the reduction in pay and the employer would have to terminate her employment and the employer accepted her decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her 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.

While the claimant may not have been performing the job to the employer's expectations or satisfaction, the employer did not provide any evidence that it was due to misconduct nor did it issue any formal warnings to the claimant about her performance and consequently she did not know her job was in jeopardy. The employer effectively offered the claimant a demotion and told her it was going to reduce her $12.00 per hour pay to $10.00 per hour if she accepted the new position. The claimant declined and the employer considered her to have voluntarily left her employment. Inasmuch as the claimant would suffer a significant reduction in her wages, the change of the original terms of hire are considered substantial. Therefore, benefits are allowed.

DECISION:

The October 7, 2008, reference 06, 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.

_____
Julie Elder
Administrative Law Judge

_____
Decision Dated and Mailed

je/pjs