

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

PEDRO P ZAVALA
Claimant

APPEAL NO. 19A-UI-06468-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR GUYS LLC
Employer

OC: 07/21/19
Claimant: Respondent (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 12, 2019, reference 01, decision that allowed benefits to the claimant provided he was otherwise eligible and that held the employer's account could be charged for benefits, based on the deputy's conclusion that the claimant's July 18, 2019 separation was for good cause attributable to the employer. After due notice was issued, a hearing was held on September 9, 2019. Claimant Pedro Zavala participated. Juan Miranda represented the employer. Spanish-English interpreter Sofia Vinnnet assisted with the hearing. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibit 1 into evidence.

ISSUES:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the employer's account may be charged for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Labor Guys, L.L.C. is a staffing agency that provided workers to PAE in Urbandale. Pedro Zavala was employed by Labor Guys from 2017 until July 19, 2019 on a full-time basis and worked in a long-term assignment at PAE throughout the employment. Mr. Zavala's work hours were 3:00 p.m. to 11:30 p.m., Monday through Friday. Effective July 19, 2019, PAE eliminated the second shift work at its Urbandale location in preparation for transferring all of the Urbandale work to Kansas City, Missouri. As the second shift work was coming to an end, the employer offered Mr. Zavala the opportunity to move to the first shift for a brief period until PAE shut down production on the first shift. The first shift hours were 7:00 a.m. to 3:00 p.m., Monday through Friday. The pay would remain the same. Mr. Zavala elected not to move to the first shift. Labor Guys did not have any other clients in the Des Moines metropolitan area. Labor Guys' next closest client was an hour away from Des Moines. Mr. Zavala resides in Des Moines.

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).

The evidence in the record establishes a July 19, 2019 separation that was for good cause attributable to the employer. As of July 19, 2019, the employer had no more work for Mr. Zavala on the second shift. The second shift work hours were the established work hours. The employer's proposed change in work hours to the first shift hours constituted a substantial change in the conditions of the employment. Mr. Zavala is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The August 12, 2019, reference 01, decision is affirmed. The claimant's separation from the employment was for good cause attributable to the employer. The separation was effective July 19, 2019. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs