

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GERRI L ALLEN
Claimant

BRENDA SMITH
Employer

APPEAL 19A-UI-08178-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 09/22/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(1) – VQ – Change in contract of hire

STATEMENT OF THE CASE:

Claimant/appellant filed an appeal from the October 14, 2019 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on November 7, 2019, at 2:00 p.m. Claimant participated. Employer participated through owner Brenda Smith. Claimant's Exhibit A was admitted. Employer's Exhibit 1 was admitted.

ISSUE:

Whether claimant's separation was a voluntary quit without 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 as a part-time house cleaner from March 2018 until her employment with Brenda Smith ended on July 2, 2019. (Claimant Testimony) Claimant worked Monday through Wednesday for five to six hours per day. (Claimant Testimony)

On June 3, 2019, claimant informed employer that she only wanted to work Mondays and Tuesdays. (Claimant Testimony) Employer told claimant that if she only worked two days per week, then employer must drop claimant's wage from \$14.00 per hour to \$13.00 per hour. (Claimant Testimony) The decrease in wage was because employer would have to promote someone to a managerial position to assume claimant's responsibility for driving the work van and to perform claimant's duties on Wednesdays. (Smith Testimony) Claimant did not believe that employer would actually reduce her hourly wage. (Claimant Testimony) On June 26, 2019, claimant quit her employment, because she had received her first paycheck reflecting the reduced hourly wage. (Claimant Testimony) Claimant's last day of work was July 2, 2019. (Claimant Testimony) Claimant filed an original claim for unemployment insurance benefits with an effective date of September 22, 2019.

There was continuing work available to claimant if she had not quit. (Smith Testimony) Claimant's job was not in jeopardy. (Smith Testimony)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(13) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

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).

Claimant's resignation is both evidence of her intention to sever the employment relationship and an overt act of carrying out her intention. Claimant voluntarily quit her employment, because employer reduced her hourly wage by one dollar. However, the reduction in wage was a direct result of claimant's unilateral change in schedule. Claimant agreed to the change in schedule and remuneration when the parties renegotiated the employment contract on June 3, 2019. Claimant cannot rely on this mutually agreed upon change in employment terms as good cause attributable to employer. Furthermore, the reduction in claimant's hourly wage from \$14.00 to \$13.00 equates to a pay reduction of 7 percent, which is not substantial. Claimant has not met her burden of proving good cause attributable to employer. Benefits are denied.

DECISION:

The October 14, 2019 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Adrienne C. Williamson
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Decision Dated and Mailed

acw/scn