

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMY M FUNT
Claimant

APPEAL NO. 13A-UI-08950-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

U S SECURITY ASSOCIATES INC
Employer

OC: 06/16/13
Claimant: Respondent (5)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 23, 2013, reference 02, decision that allowed benefits and that held the employer's account could be charged. After due notice was issued, a hearing was held on September 9, 2013. Claimant Amy Funt did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Robert Collins, Branch Manager, represented the employer. Exhibits One and Two were received into evidence.

ISSUE:

Whether Ms. Funt separated from the employer for a reason that disqualifies her for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Amy Funt was employed by U.S. Security Associates, Inc., as a full-time security officer from October 2012 until June 6, 2013. Throughout the employment, Ms. Funt was posted at the National Guard Armory in Waterloo. Ms. Funt's work hours were 4:00 p.m. to midnight, Monday through Friday. Ms. Funt's wage was \$8.00 per hour. Robert Collins, Branch Manager, was Ms. Funt's immediate supervisor.

In mid-May 2013, Mr. Collins notified Ms. Funt that her position at the Armory would be eliminated in June due to a reduction in governmental funding for security at national guard armories. The State of Iowa had notified the employer that authorized man hours at the Waterloo Armory would be reduced from 128 per week to 56 per week until October 2013, when a new contract would be signed. Mr. Collins told Ms. Funt that he would look for another position for her within the company. Ms. Funt said that would be fine, but that she might be moving to Orlando, Florida in July.

Mr. Collins again spoke with Ms. Funt on June 5 or June 6, 2013, in connection with her Waterloo position being eliminated as of June 6, 2013. Mr. Collins told Ms. Funt that he had located a full-time position for Ms. Funt in Cedar Rapids. The work hours would be 9:00 a.m. to

4:30 p.m., Monday through Friday. The position would pay \$9.50 per hour. Ms. Funt was living in the Cedar Falls/Waterloo area and would have to provide her own transportation to and from Cedar Rapids. The employer estimates that drive from Waterloo/Cedar Falls to Cedar Rapids to be 50 minutes in duration. Ms. Funt told Mr. Collins that she would need to speak with her boyfriend about the proposed Cedar Rapids position.

On June 7, 2013, Ms. Funt got back to Mr. Collins with an answer. Ms. Funt reported that her boyfriend thought that Cedar Rapids was too far to drive. In other words, Ms. Funt declined the offer to transfer to the position in Cedar Rapids. Ms. Funt added that she and her boyfriend were still thinking about moving to Orlando, Florida. Mr. Collins told Ms. Funt that he would contact her in October 2013 about returning to the Waterloo assignment if she was still around at that time.

REASONING AND CONCLUSIONS OF LAW:

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.

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.

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.

"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 indicates that Ms. Funt voluntarily quit in response to substantial changes in the conditions of her employment. These included elimination of position in Waterloo, the change in shift, and the proposed daily commute from Waterloo/Cedar Falls to Cedar Rapids. The commute was at least 50 minutes each way. The proposed changes were expected to last at least four months. Ms. Funt's near minimum wage job was not the type of position where a reasonable employee would expect to have to transfer to another position an hour away or almost an hour away. Ms. Funt's decision to voluntarily quit the employment, rather than accept the transfer, was for good cause attributable to the employer. Accordingly, Ms. Funt is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Funt.

DECISION:

The agency representatives July 23, 2013, reference 02, decision is modified as follows. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css