

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NEAL L CONRAD
Claimant

APPEAL NO. 07A-UI-07392-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MIDWEST NORTH IOWA
JANITORIAL SVCS INC**
Employer

**OC: 12/31/06 R: 02
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving
Section 96.7-2-a(2) – Charges Against Employer’s Account

STATEMENT OF THE CASE:

Midwest North Iowa Janitorial Services, Inc. (employer) appealed a representative’s July 24, 2007 decision (reference 02) that concluded Neal L. Conrad (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties’ last-known addresses of record, a telephone hearing was held on August 16, 2007. The claimant participated in the hearing. Pam Smoot appeared on the employer’s behalf and presented testimony from one other witness, Jim Skyrme. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit for a good cause attributable to the employer?

Is the employer’s account subject to charge?

FINDINGS OF FACT:

The claimant started working for the employer on April 1, 2007. He originally worked full time as a janitorial staff person at the employer’s industrial business client on a Monday through Friday, 3:00 p.m. to 11:30 p.m. shift. As the result of a concern that the claimant was not working effectively after 9:00 p.m. when another staff person came on duty, on June 24 the employer’s owner informed the claimant that the problem with the crossover in shifts had to be addressed, and so he was to end his shift at 9:00 p.m. The claimant responded that as a result he was giving his notice of quitting as he needed to have full time employment, and could not afford to lose 12.5 hours per week (2.5 hours per night x five nights).

The claimant requested documentation of the reduction in his hours as well as a written statement of the justification; on the morning of June 27 he renewed his request to the owner and was told it would not be a problem and was instructed to contact Ms. Smoot when he reported for work. When the claimant contacted Ms. Smoot, she told him that he would not

provided the documentation directly, but that if he wished to have documentation sent to his landlord, he would have to provide the name and address of the landlord. As a result of this demand which he found unreasonable and simply adding insult to injury, the claimant determined to make his quit effective immediately, and left the facility about 15 minutes after the start of his shift, turning in his keys the next day.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for 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.

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.

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988); Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). Even if the employer had a good reason for reducing the claimant's hours, the change in his hours which had been implemented was a substantial change in the claimant's contract of hire. Dehmel, supra. Benefits are allowed.

The final issue is whether the employer's account is subject to charge. An employer's account is only chargeable if the employer is a base period employer. Iowa Code § 96.7. The base period is "the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which the individual filed a valid claim." Iowa Code § 96.19-3. The claimant's base period began July 1, 2005 and ended June 30, 2006. The employer did not employ the claimant during this time, and therefore the employer is not currently a base period employer and its account is not currently chargeable for benefits paid to the claimant.

DECISION:

The representative's July 24, 2007 decision (reference 02) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible. The employer's account is not subject to charge in the current benefit year.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css