

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**NATHAN R TRUNECEK**  
Claimant

**LEE'S LAWN CARE LLC**  
Employer

**APPEAL NO. 20A-UI-01698-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/19/20**  
**Claimant: Appellant (2)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Nathan Trunecek filed a timely appeal from the February 20, 2020, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the Mr. Trunecek voluntarily quit on November 27, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 12, 2020. Mr. Trunecek participated. John Lee represented the employer and presented additional testimony through the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, DBIN and WAGE-A.

**ISSUES:**

Whether the claimant voluntary quit without good cause attributable to the employer.  
Whether the claimant was discharged from the employment.  
Whether the claimant was laid off.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Jonathan Lee owns and operates Lee's Lawn Care, L.L.C., a lawn care, landscaping, and snow removal business. Nathan Trunecek was employed by Lee's Lawn Care, L.L.C. as a full-time laborer from April 2019 until November 27, 2019. At the start of the employment, the employer notified Mr. Trunecek that the available work hours and duties would change in the fall, at the end of the lawn care and landscaping season and as the employer switched to providing snow removal services. Mr. Lee advised Mr. Trunecek that he would "take care of" Mr. Trunecek. Mr. Trunecek's starting wage was \$15.00 per hour. Toward the end of the summer, the employer increased Mr. Trunecek's wage to \$15.50 per hour. During the lawn care and landscaping season, Mr. Trunecek's usual work hours were from 7:00 or 8:00 a.m. to 5:00 p.m., Monday through Friday. Throughout the employment, Foreman Chad Pegump was Mr. Trunecek's immediate supervisor.

The employer ceased having full-time work hours for Mr. Trunecek during the second week of November. During the week of November 17-23, 2019, the employer had no work hours for

Mr. Trunecek and temporarily laid off Mr. Trunecek. The employer advised Mr. Trunecek to apply for unemployment insurance benefits.

During the week of November 17-23, 2019, Mr. Trunecek attempted to establish an original claim for unemployment insurance benefits. However, Mr. Trunecek had base period wages for only one base period quarter and did not meet the minimum earnings requirements to be eligible for benefits. Mr. Trunecek subsequently received a green slip (monetary record) from Iowa Workforce Development that denied his claim and that instructed him to reapply for benefits on January 5, 2020 at the start of the next calendar quarter.

During the week of November 24-30, 2019, the employer had reduced hours available for Mr. Trunecek. This included a fall clean-up assignment scheduled on Wednesday, November 27, 2019.

Mr. Trunecek was upset at the time he reported to the workplace to begin his shift on November 27, 2019. Mr. Trunecek told Mr. Lee and Mr. Pegump that he had been denied unemployment insurance benefits and that the document he received from Iowa Workforce Development instructed him to apply again on January 5, 2020. Mr. Lee did not understand why Mr. Trunecek had been denied unemployment insurance benefits and asked Mr. Trunecek whether he had contacted Iowa Workforce Development to gain a better understanding of the denial. Mr. Trunecek advised he had not made such contact. In light of the denial of unemployment insurance benefits, Mr. Lee agreed to come up with 20 to 30 hours of work per week for Mr. Trunecek, even if that meant having Mr. Trunecek perform shop work, until Mr. Trunecek became eligible for unemployment insurance benefits. The weekly wages for such work would have totaled \$310.00 to \$465.00, rather than \$620.00 or so that Mr. Trunecek would earn if he worked full-time hours. Mr. Trunecek asked Mr. Lee why he should work 20 to 30 hours per week while other employees would be sitting at home making the same amount of money. Mr. Trunecek became increasingly upset. Mr. Lee reminded Mr. Trunecek of the work he had lined up for Mr. Trunecek and told Mr. Trunecek that he needed to get going to the project site. Mr. Trunecek told Mr. Lee that the employer should have allowed him to report directly to the project site, since it was close to where Mr. Trunecek was staying. It was the employer's practice to have employees meet at the employer's shop and then travel in the company truck to jobsites. Mr. Trunecek continued to be upset. Mr. Trunecek stormed out of the workplace and slammed the door as he exited. Mr. Trunecek went to his truck, entered the truck, pounded on his steering wheel causing the horn to sound. Mr. Lee and Mr. Pegump thought it best not to reengage Mr. Trunecek at the moment. Mr. Trunecek left the workplace. Mr. Lee sent another employee to perform the fall cleanup project and waited to see whether Mr. Trunecek would return. Mr. Trunecek limited his further contact to inquiry about his final check and did not return to the employment.

#### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Administrative Code rule 871-24.1(113) characterizes the different types of employment separations as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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 Iowa Administrative Code rule 871-24.25.

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.

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).

Regardless of the accompanying drama, this case comes down to a voluntarily quit in response to substantial changes in the established conditions of the employment. Neither Mr. Trunecek nor the employer had the necessary knowledge concerning the unemployment insurance system to foresee the denial of unemployment insurance benefits that accompanied the November temporary layoff and partial unemployment situation. In response to the denial of

unemployment insurance benefits. the employer proposed reduced work hours that would provide Mr. Trunecek with 50 percent to 75 percent of his usual full-time wages. That meant that under the best case scenario, Mr. Trunecek faced a 25 to 50 percent reduction in his weekly wages. The substantial reduction in weekly wages clearly had a significant detrimental impact on Mr. Trunecek and would continue to have a significant detrimental impact for months, if Mr. Trunecek had acquiesced in the changed conditions. The voluntary quit that was effective November 27, 2019 was for good cause attributable to the employer. Mr. Trunecek is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits.

**DECISION:**

The February 20, 2020, reference 01, decision is reversed. The claimant voluntarily quit the employment on November 27, 2019 for good cause attributable to the employer. The claimant is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits.



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James E. Timberland  
Administrative Law Judge

March 24, 2020  
Decision Dated and Mailed

jet/scn