

IN THE COURT OF APPEALS OF IOWA

JOAN BENTLER, d/b/a)
CLINTON RENTAL CENTER,)

Petitioner-Appellant,)

vs.)

EMPLOYMENT APPEAL BOARD,)
Respondent-Appellee.)

8-118
87-1458

FILED

AUG 24 1988

CLERK SUPREME COURT

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Appeal from the Iowa District Court for Clinton County
(No. CL 11486), L. D. Carstensen, Judge.

Petitioner employer appeals from an order by the district court affirming an administrative determination that a former employee voluntarily quit her job for good cause attributable to her employer and thus qualifies for unemployment compensation. **AFFIRMED.**

Kent Hutcheson of Fort Madison for
petitioner-appellant.

William C. Whitten and Blair H. Dewey, Des Moines, for
respondent-appellee.

Heard by Oxberger, C.J., and Donielson and Hayden, JJ.

OXBERGER, C.J.

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Joan Bentler, d/b/a Clinton Rental Center, appeals the district court's judicial review of an unemployment compensation claim in which the district court affirmed the agency's final decision allowing benefits to a former employee of Clinton Rental Center, Kimberly Cook. Bentler contends the trial court erred in finding that the reduction in wages to be a substantial change in the contract of hire pursuant to 345 Iowa Administrative Code 4.26(1). We affirm.

On review of the district court's decision, our task is to determine whether the district court correctly applied the law. See Infante v. Iowa Dep't of Job Service, 364 N.W.2d 262, 264 (Iowa App. 1984). We must decide whether the agency action is supported by substantial evidence and comports with the applicable rules of law Id. The only issue on appeal is whether Kimberly Cook is entitled to unemployment benefits.

Kimberly Cook began working for Clinton Rental Center in October of 1985. She was hired as part of a job training program in which she eventually would learn to work with the public, leasing party equipment and tuxedos, as well as selling invitations. It became apparent to Cook's supervisors that she was not suited for this advancement because her personality and mannerisms were too coarse to enable her to deal with the public. Cook states she was

hired at \$4.00 per hour and received a 25 cent hourly raise in January of 1986. She continued working for the Bentlers as a physical laborer. Cook later had an accident with the company van and was arrested for shoplifting. Following these two incidents and because Cook's mannerisms were too abrupt for contact with the public, the Bentlers decided to cut her wages from \$4.25 an hour to \$3.35 an hour. She was notified of this decision by letter and in person on August 21, 1986. The wage reduction was not to take effect until a week later. On August 22, 1986, Cook voluntarily left employment with the Bentlers because (1) her wages were going to be reduced; (2) she was dissatisfied with the work shifts; and (3) the Bentlers had also reduced the total number of hours she was working. The record reflects she was hired to work as she was needed. Cook states she received no warning concerning her problems at work. The Bentlers testified otherwise.

Pursuant to Iowa Code section 96.5(1) (1987), a person will be disqualified for unemployment compensation benefits if he or she voluntarily left work "without good cause attributable to the . . . employer." Iowa Code 96.5(1) (1987). The term "good cause" must be deduced from the facts of each case bearing in mind the public policy underlying Chapter 96 of the Code which strives to encourage employers to provide stable employment and discourages

involuntary employment. Wiese v. Iowa Dep't of Job Service, 389 N.W.2d 676, 680 (Iowa 1986). Common sense and prudence must be used in evaluating the circumstances. Id. The practical test is whether the employment relationship in effect was terminated by the employer. Id. at 679-80. Good cause for leaving employment voluntarily "must involve some fault of the employer." Efkamp v. Iowa Dep't of Job Service, 383 N.W.2d 566, 568 (Iowa 1986).

The employer has the burden of proving that the employee left without good cause attributable to the employer in order to disallow benefits. See 345 Iowa Admin. Code 4.25. Taylor v. Iowa Dep't of Job Service, 362 N.W.2d 534 (Iowa 1985).

The agency found that the reduction in Cook's pay from \$4.25 to \$3.35 per hour was a substantial change in rate of pay, and therefore a substantial change in the claimant's employment. Since there is substantial evidence in the record to support the agency's finding, we are bound by the agency's finding.

Bentler states in her brief:

Thus, this whole case turns upon whether the petitioner-appellant had good cause for reducing the wages of Kimberly Cook from \$4.25 per hour to \$3.35 per hour. . . .

Bentler cites Efkamp v. Iowa Dep't of Job Service, 383 N.W.2d 566 (Iowa 1986) as authority. "Reduced pay alone is not sufficient to justify a quit as attributable to the employer." However, in Efkamp the court said:

Since the majority of the employees . . . by selecting a union to represent them . . . the rights of the individual worker to deal with his employer is surrendered to the bargaining agent. (Citation.)

In this case, neither Cook nor any agent consented to a reduction in her pay. The employer unilaterally reduced her pay.

Bentler cites no other authority for the proposition that good cause for the employer's act of reducing pay will justify denying the employee unemployment benefits. We know of no such authority. Furthermore, we find nothing in the statute that would justify such a holding.

We decline to deny unemployment benefits to a worker whose pay is substantially but justifiably reduced by an employer.

AFFIRMED.