

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES A GEERTS
Claimant

APPEAL NO. 07A-UI-07430-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAWKEYE MOTORWORKS
Employer

**OC: 07/08/07 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

James A. Geerts (claimant) appealed a representative's July 26, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Hawkeye Motorworks (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. 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. Joel Reno, the operator, appeared on the employer's behalf. 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.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on January 13, 2006. The employer hired the claimant to work as a full-time sales person. The employer agreed to pay the claimant a commission of \$100.00 for each unit he sold. While the claimant was in training and during the employer's slow season, the employer paid the claimant a minimum of \$100.00 a day for each day he worked. This meant that if the claimant did not sell a unit, the employer paid the claimant a draw on his future sales. In the winter, the claimant also worked as a snow plow operator. As a result of this work, the employer agreed to pay the claimant a minimum of \$100.00 a day for every day he came to work.

A week in March 2007, the claimant sold 13 units. The employer only paid the claimant \$600.00 that week. The other \$700.00 was used to reduce the money the employer had previously advanced him.

The employer encouraged the claimant to work more hours so he could sell more units. The claimant lived 55 miles from the employer's business and picked up his young child from the

childcare provider. The claimant worked five days a week, 9:00 a.m. to 3:30 p.m. After the employer hired a new salesperson in May, the employer informed the claimant that the employer could no longer afford to pay the claimant a minimum of \$100.00 a day. From that point forward, the employer eliminated the \$100.00 a day payment and only paid the claimant based on the number of units he sold each week. Again, the employer encouraged the claimant to work more hours so he had more time to sell to customers.

The first week of June, the claimant earned \$350.00, the second week he earned \$300.00 and the third week he earned \$124.00. When the claimant received the check for just over \$100.00 on June 28, 2007, he decided he had to quit because he could not drive 550 miles a week for that amount of money. The claimant told the employer he could not live on that amount of money, but the employer indicated he could no longer give the claimant a guaranteed \$100.00 per day and the claimant had to rely on the number of units he sold or solely his commission.

The claimant was also upset that the employer declined to give him a portion of a sale that the new salesperson had made to a customer who worked with the claimant. The customer told the claimant that he came in on a Friday to look around and was told by the new salesperson that the claimant no longer worked for the employer. Based on this information, the customer bought a unit from the new salesperson even though he had planned to make the purchase the next day when he knew the claimant worked. Based on the new salesperson's representations the night before the customer was very surprised to see the claimant working the next day. The employer refused to listen to the claimant or give him credit for part of this sale because the claimant had not been working the night the customer purchased the unit. Even though the employer had implemented a new logging system, which could provide more income to the claimant, the claimant did not participate in the new program. The claimant did not work after June 28, 2007.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits without good cause when he leaves employment because of dissatisfaction with the wages but knew the rate of pay when hired. 871 IAC 24.25 (13). When the employer hired the claimant, the employer told him he would earn \$100.00 for each unit he sold. The claimant may have been lulled into a false sense of security because the employer did not want the claimant to become financially strapped during the employer's slow season or during his training. During this time, the employer paid the claimant a minimum of \$100.00 a day for each day he worked even if he did not sell any units.

Starting in April or May, the employer entered its busy season and expected the claimant to sell more units instead of relying on the minimum \$100.00 a day for showing up to work. As of early June, the claimant knew the employer would only pay him for the units he sold. After an unusually slow week, the claimant only earned \$124.00. Even though this was the first time the claimant had earned so little, he quit because this amount of money did not pay for the expenses he incurred to get to work, gas, and childcare expenses. The claimant established compelling personal reasons for quitting. Since the employer hired him on a commission basis, \$100.00 for each unit sold, and the claimant accepted this commission basis when he agreed to work for the employer, the claimant did not establish that he quit for reasons that qualify him to

receive unemployment insurance benefits. As of July 8, 2007, the claimant is not qualified to receive benefits.

DECISION:

The representative's July 26, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 8, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw