

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**DESTINEY A HURSTROM**  
Claimant

**UNIVERSAL ADCOM LLC**  
Employer

**APPEAL NO. 18A-UI-09212-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/12/18**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 30, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 21, 2018. Claimant participated. Employer failed to respond to the hearing notice and did not participate.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: As claimant was the only participant in this matter, all findings of fact are derived from claimant's testimony. Claimant last worked for employer on August 9, 2018. Claimant voluntarily quit her job on August 10, 2018 after her repeated questioning regarding her pay went unresolved for weeks culminated with claimant not receiving a paycheck.

Claimant worked as a sales associate for employer receiving pay in the form of an hourly pay and a commission. In July claimant started noticing that she wasn't receiving the commission for customers' pay of monies owed in their invoices. Claimant asked employer about this as she was sure that she was owed commissions for accounts paid. Employer did not respond to claimant's queries and clients' phone numbers were removed from the company records so claimant was unable to check with the clients to be sure that they had paid their bills (and thus that claimant was entitled to the commissions).

Claimant then did not receive her last paycheck. Employer did not respond to claimant's questions about this either. Claimant became frustrated with employer's lack of response and quit her job.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-23.3(1) provides:

(1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Wages also means wages in lieu of notice, separation allowance, severance pay, or dismissal pay. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rule 23.2(96).

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she wasn't getting paid properly by employer, according to employer's wage and commission schedule.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* The lack of pay that one is owed, with no explanation from employer does constitute good cause for a quit. Claimant essentially had a unilateral change of the contract of hire by employer, and was justified in her quit when she didn't receive duly earned wages.

**DECISION:**

The decision of the representative dated August 30, 2018, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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