

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SCOTT R ZEINER**  
Claimant

**APPEAL NO. 07A-UI-00918-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APRIA HEALTHCARE INC**  
Employer

**OC: 06/04/06 R: 04**  
**Claimant: Respondent (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Apria Healthcare (employer) appealed a representative's January 10, 2007 decision (reference 04) that concluded Scott Zeiner (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 12, 2007. The claimant participated personally. The employer participated by Donald Osthoff, Branch Logistics Supervisor. The claimant offered two exhibits, which were marked for identification as Exhibits A and B. Exhibits A and B were received into evidence.

**ISSUE:**

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on October 9, 2006, as a full-time patient service technician. At the time of the claimant's hire the employer promised the claimant health insurance that would begin on January 1, 2007, if he completed a packet of information. After repeated requests for the packet of information the packet was not provided. It was lost in the mail twice. As a result, the claimant would not be eligible to receive health insurance until January 1, 2008. The claimant quit work on December 20, 2006, when he learned there would be no health insurance benefits until January 1, 2008. Continued work was available had the claimant not resigned.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did not voluntarily quit work without good cause attributable to the employer.

Iowa Code section 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer that he was leaving and quit work.

In the absence of agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 140 Nebraska 889, 2 N.W.2d 332 (1942). When an employee quits work because the employer did not pay benefits when they were due without an agreement to the contrary, his leaving is with good cause attributable to the employer. The claimant left work because he would not be given health care benefits on January 1, 2007, and there was no agreement to the contrary. His leaving was with good cause attributable to the employer. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's January 10, 2007 decision (reference 04) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw