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

ROBERT D SCHULER
Claimant

APPEAL NO. 06A-UI-11532-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN REPUBLIC INSURANCE CO
Employer

OC: 10/15/06   R: 01
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Robert Schuler filed an appeal from a representative's decision dated November 16, 2006, reference 01, which denied benefits based on his separation from American Republic Insurance Company. After due notice was issued, a hearing was held by telephone on December 14, 2006. Mr. Schuler participated personally and offered additional testimony from Jane Peters. The employer participated by Emily Stevens, Recruiter, and Bobbi Rietz, Sales Supervisor.

ISSUE:

At issue in this matter is whether Mr. Schuler was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Mr. Schuler at his address of record on November 16, 2006. He filed an appeal by certified mail on November 21, 2006. The appeal was not received by Workforce Development. Mr. Schuler learned approximately one week later that the appeal had not been received. He filed an additional appeal on December 1, 2006.

Mr. Schuler began working for American Republic Insurance Company on August 31, 2005. He was last employed full-time as a senior account specialist. He performed services at the Omni Center in Council Bluffs, Iowa. In January of 2006, the employer announced plans to have the account specialists begin working from their homes at some future point. This had not been discussed with Mr. Schuler at the time of hire because working at home was not an option at that point.

Mr. Schuler could not work from his home because he does not have the space to do so. He also felt working from home would be disruptive for his wife as she is home during the day and has health issues. He continued to have the option of remaining at the Omni Center. Mr. Schuler did not want to work at the Omni Center because he did not feel he would have the day-to-day supervision he needed. The supervisor would have been available by telephone to

respond to any questions he had. The supervisor planned to be in the Omni Center office one to two times each week. Mr. Schuler did not want to work in the Omni Center alone. The facility is locked and secured so there would not have been a problem with outsiders accessing his workspace. Other at-home employees are in and out of the office periodically. Mr. Schuler objected to the noise caused by construction activities at the Omni Center. He felt the noise would interfere with his work. He also felt he would not have help if he had technical problems with his computer. Any computer problems Mr. Schuler experienced would have been handled through a telephone call to the employer's "help desk."

Mr. Schuler also had the option of working at the employer's location in Omaha, Nebraska, approximately 20 minutes from the Omni Center. He opted not to work at home, at the Omni Center, or at the employer's Omaha location. Therefore, he became separated from the employment on October 13, 2006. Continued work would have been available if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether Mr. Schuler's appeal should be considered timely filed as required by Iowa Code section 96.6(2). He initially filed a timely appeal but, through no fault of his, it was not received by Workforce Development. He re-filed his appeal as soon as he became aware that the initial filing had not been received. For the above reasons, the appeal filed on December 1, 2006 shall be deemed timely filed. Therefore, the administrative law judge has jurisdiction over the separation issue.

Mr. Schuler quit his employment. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The administrative law judge notes at the outset that Mr. Schuler was not being required to work from his home. Had this been a requirement, then there would be an issue of a change in the terms and conditions of employment. Because he was not required to work from his home, the issue of any hardship caused by the move home is moot.

Mr. Schuler could have continued to work at the Omni Center after October 13 had he wanted to. He would, for the most part, have been working alone except when other at-home agents came to the office or the supervisor from Des Moines was there. Mr. Schuler would have continued to have access to a supervisor if he had questions and to the "help desk" if he had problems with his equipment. The facility was secure so there should have been no issues concerning his safety while working alone. The administrative law judge appreciates that there was construction noise at the Omni Center. However, the noise would have been present even if the employer had kept its entire operation there.

The only change in Mr. Schuler's employment would have been the fact that he sometimes had to work alone. His job was not dependent on others being present with him to complete a process. The administrative law judge concludes that the change from working around a group to working alone was not so substantial a change as to constitute good cause attributable to the employer for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated November 16, 2006, reference 01, is hereby affirmed. Mr. Schuler voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work

equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman
Administrative Law Judge

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Decision Dated and Mailed

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