

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL L WALDO
Claimant

**APPEAL NO. 09A-UI-08564-VS
ADMINISTRATIVE LAW JUDGE
DECISION**

**APAC CUSTOMER SERVICES OF
IOWA LLC**
Employer

**OC: 01/25/09
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(1) –Substantial Change in Conditions of Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 8, 2009, reference 04, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 28, 2009, in Davenport, Iowa. Claimant participated. Employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Michael Waldo.

ISSUE:

Whether the claimant voluntarily quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record makes the following findings of fact:

The claimant was hired in mid January 2008 as a full-time customer service representative. The employer provides customer service for a number of clients and the claimant was initially assigned to work for the Verizon Wireless account. The claimant worked 40 hours plus per week and was assigned to what he called night hours. In June or July 2008, the claimant informed the employer that he would be returning to school but that he could continue to work full time since he would be going to school during the day and was working at night. This arrangement continued throughout the fall and early winter. The claimant went to school during the day and then worked at night.

The claimant was transferred to another account and was told he had to work more hours and that he had to work from 8:00 a.m. to 5:00 p.m. These requirements interfered with the claimant's school schedule and his financial assistance plan. He asked to be transferred to another account so that he could work different hours as he had done in the past. The employer refused and the claimant was terminated.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily left with 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.

An individual may receive unemployment insurance benefits if the individual resigns because of a substantial change in the conditions of employment. See 871 IAC 24.26(1).

The evidence in this case established that the claimant did not want to quit his job but was forced by the employer to choose between his job and his education. The claimant had previously worked hours for the employer that were outside his scheduled school hours and that the employer had in essence, acquiesced in providing those hours for the claimant. The claimant was then transferred to an account that required different hours during the day, when he was in school. The claimant asked to go to another account where he could work the night hours. The employer refused.

The administrative law judge concludes that the claimant left his job because of a substantial change in the conditions of his employment. He left for good cause attributable to the employer. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated June 8, 2009, reference 04, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css