

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DYTANYON TERRY**  
Claimant

**APPEAL NO. 06A-UI-09729-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALPLA INC**  
Employer

**OC: 09/10/06 R: 03  
Claimant: Respondent (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Alpla, Inc. filed an appeal from a representative's decision dated September 28, 2006, reference 01, which held that no disqualification would be imposed regarding Dytanyon Terry's separation from employment. After due notice was issued, a hearing was held by telephone on October 17, 2006. Mr. Terry participated personally. The employer participated by Kim Koomar, Human Resources Manager, and Erin Hazen, Logistics Manager.

After the hearing record was closed, Mr. Terry submitted documents to be considered by the administrative law judge. The documents have not been considered as they were not sent to the Appeals Bureau prior to the hearing as instructed on the hearing notice. The documents were available and could have been submitted prior to the hearing. There was no request by Mr. Terry to have the hearing record left open pending receipt of additional documents.

**ISSUE:**

At issue in this matter is whether Mr. Terry 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: Mr. Terry was employed by Alpla, Inc. from July 24, 2005 until September 15, 2006. He was initially hired as a team leader but was later promoted to the position of shift supervisor in the warehouse. On September 11, Mr. Terry was notified that he was being removed from the supervisory position, a position he had held for approximately one year at that point. He was demoted from the supervisory position because the employer was unhappy with his job performance. He had missed mandatory meetings and interviews with prospective employees. He had also released product that he should not have released. Mr. Terry was never advised that his performance was such that he might be discharged or demoted.

After Mr. Terry was removed from the supervisor's position, he was offered a different job on a different shift. The new position was performing re-work at \$10.50 per hour. He had been

earning \$14.50 per hour as a supervisor. Mr. Terry indicated he would consider the new position but later declined it because of the wages. He became separated from the employment on September 15, 2006.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Terry became separated from Alpla, Inc. when he refused the new position offered on September 11, 2006. The administrative law judge concludes that he initiated the separation and, therefore, it is considered a voluntary quit. 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). Mr. Terry quit because of a change in the contract of hire. The term "contract of hire" does not require a written agreement between the parties. It refers to the terms and conditions under which employment is offered and accepted. The contract of hire may be change by mutual agreement or by one party acquiescing to changes unilaterally made by the other.

Although Mr. Terry was hired as a team leader, he was promoted to the position of supervisor, which became his new contract of hire. The employer opted to change the terms of his employment by demoting him from supervisor to a lesser position. As such, the employer changed the terms of his employment, or his contract of hire. Mr. Terry was not agreeable to the change and quit. The change would have resulted in him losing \$4.00 per hour in wages. The total of lost wages would have been \$160.00 for a 40-hour workweek. The administrative law judge considers a \$160.00 per week reduction in wages to be a substantial change in the terms of employment. As such, Mr. Terry had good cause attributable to the employer for quitting.

The administrative law judge appreciates that the demotion in this case was due to Mr. Terry's unsatisfactory performance as a supervisor. However, he had not been clearly warned that he was in danger of losing his supervisory position. Therefore, he did not have a reasonable opportunity to try to salvage his position.

For the reasons stated herein, the administrative law judge concludes that Mr. Terry voluntarily quit his position for good cause attributable to the employer. Accordingly, benefits are allowed.

**DECISION:**

The representative's decision dated September 28, 2006, reference 01, is hereby affirmed. Mr. Terry quit his employment with Alpla, Inc. for good cause attributable to the employer. Benefits are allowed, 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

cfc/cs