

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STACEY NERNESS**

Claimant

**APPEAL NO. 11A-UI-01718-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RESULTS CUSTOMER SOLUTIONS LLC**

Employer

**OC: 01/09/11**

**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated February 7, 2011, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 9, 2011. The claimant participated. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Stacey Nerness.

**ISSUE:**

Whether the claimant voluntarily left 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 employer provides telemarketing services. The claimant was hired in June 2010 as a full-time customer service representative. His last day of work was January 7, 2011. He quit his job on January 7, 2011.

The claimant quit his job for several reasons. The first reason was that every paycheck that he received was less than the amount he was owed. Sometimes the error was due to an improper hourly wage and other times bonuses were not paid. These shortages happened to other employees as well. The claimant made repeated requests to payroll to straighten out the problem and the problem persisted. The minimum amount missing was \$150.00 and the highest amount \$500.00. The claimant has filed a claim with the Department of Labor concerning wages he was not paid. The amount not paid to him is \$1,900.00.

In November 2010, the claimant was informed he was being promoted to the position of floor supervisor. On one particular day, his supervisor asked him to stay late so the supervisor could work on some paperwork. The claimant later found out that the real reason this individual stayed late was so that he could purchase some drugs from another employee. Approximately one and one-half weeks later the claimant went to the director in confidence about the situation.

A week later everyone in the workplace knew about it and the claimant was threatened by several employees. One employee said he was going to kick the crap out of the claimant for being a nark.

After he complained to the director, his promotion was taken away. He received write-ups he had never received before and which were undeserved. The week before he quit his job he got sick. He lost his voice and was unable to do some of his job duties. He still reported to work. He was written up for lack of effort. Another employee then told the claimant that the employer was trying to get him to quit or set up a basis for terminating his employment.

The claimant informed his employer by telephone that he was quitting his job.

### **REASONING AND CONCLUSIONS OF LAW:**

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.

871 IAC 24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

The evidence established that it was the claimant who initiated the separation of employment. The issue is whether there was good cause attributable to the employer. Iowa law states that if a claimant leaves due to detrimental or intolerable conditions in the workplace, good cause is attributable to the employer and benefits are allowed.

The only evidence concerning the workplace conditions comes from the claimant. The employer did not participate in the hearing. The claimant gave several reasons for quitting, any one of which would be intolerable or detrimental working conditions. The claimant's paycheck was always short anywhere from \$100.00 to \$400.00 or \$500.00. These shortages caused financial hardship for the claimant. The employer did not rectify the situation despite weekly complaints from the claimant. He has had to file a claim with the Department of Labor to recover unpaid wages.

The claimant also testified that his employer took punitive action against him after he reported drug usage in the workplace. Other employees threatened him. An employer is required to provide a safe workplace for all employees. Based on the claimant's testimony, the employer

failed to do so. He was, in effect, penalized for reporting illegal activity that was taking place in the workplace. No employee should have to work in such conditions.

The administrative law judge concludes, therefore, that the claimant voluntarily quit for good cause attributable to the employer. He left due to intolerable or detrimental working conditions. Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated February 7, 2011, reference 01, is reversed. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw