

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAY O SANDRY
Claimant

APPEAL NO: 11A-UI-09476-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLEARY BUILDING CORP
Employer

OC: 05/15/11
Claimant: Respondent (2/R)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 12, 2011 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because he voluntarily quit his employment for reasons that qualify him to receive benefits. Telephone hearings were held on August 10 and 15, 2011. The claimant participated in the hearings. Sue Oliver, the human resource director, and Pete Read, the general manager, appeared on the employer's behalf. Doug Brooks and Dan Berdahl were potential witnesses, but did not testify. During the August 15 hearing, Employer Exhibits One, Two and Three and Claimant Exhibits A through O were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in June 2010. The employer hired him to work as an administrative assistant. In October 2010, the employer offered and the claimant accepted a job as the branch manager in Fairfield. Kendall Bailey, a region manager, supervised the claimant.

After the claimant accepted the offer to work as the branch manager, he signed an employment contract. The contract in part indicates the employees sell the employer product in an assigned geographic area. (Claimant Exhibit A.) Part of the claimant's compensation was based on the profitability of the assigned territories and territories assigned to another sales person, David Kreuter, in Fairfield.

In late March 2011, Bailey learned a salesman assigned to another territory sold a building in Kreuter's assigned territory. Bailey told the claimant about this discovery. Kreuter sent Bailey a written request to address this territory infringement by a salesperson in another territory. Bailey took action immediately with the sales person who infringed upon Kreuter's territory and

gave the revenue from the sale to the Fairfield office and the production to the Galesburg office. Bailey informed the salesman who had infringed on the Fairfield property that in the future he had to follow the policy and receive prior approval from both parties, his region manager and the general manager, before he can sell in another employee's assigned territory. (Claimant Exhibit B.) Kreuter did not agree that production should go to the Galesburg office and informed Bailey of his dissatisfaction. Kreuter wanted everything associated with the sale. (Claimant Exhibit D.)

In April 2011, Bailey learned about and then told the claimant about two buildings that had been sold in his territory by another salesperson. This salesperson infringed upon the claimant's assigned territory. When the claimant first began working as a branch manager, a region manager talked to him about one of his salesmen selling a building in the claimant's territory to a person this salesman had a relationship with. The claimant gave permission for the sale because he did not understand or think about the employer's territorial infringement policy. The claimant did not seek management's advice or permission for this sale to take place.

It was not until May 7, that Read learned about the problem associated with the claimant's territory. Read addressed this situation with the claimant. Read realized the claimant had not understood what he gave up when he gave the other region manager permission to sell buildings in his area because he had started working as a branch manager and did not know or understand all the policies. Read told the claimant he would try to make this situation fair, but it was difficult to do something to resolve a problem after the fact. (Claimant Exhibit E.)

On May 9, 2011, upper level management decided to split the benefits from the above two sales in the Fairfield territory. (Employer Exhibit Two.) The claimant would receive all the benefits and work associated with one sale and the outside sales person would get the benefits and work from the other sale. The claimant may not have known about this decision when he resigned on May 16. (Employer Exhibit One and Three.) The claimant told the employer he resigned because other sales people infringed upon his assigned territory and he did not believe the employer had a procedure in place to prevent this from happening. (Claimant Exhibit O.)

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits with good cause when there has been a substantial change in his employment contract. 871 IAC 24.26(1).

The claimant was understandably upset not only with sales people who infringed on his territory, but also himself after learning an experienced region manager took advantage of his ignorance of the employer's policies when he had just started working as a new branch manager. The claimant had no idea territorial infringement occurred until the employer notified him about these situations. After management learned there was an issue, the employer took timely and reasonable steps to resolve the issue equitably for all interested parties. Since the management addressed each issue as quickly as possible and tried to render fair decisions, the claimant did not establish that the employer substantially changed or even breached his employment contract. The claimant was partially responsible for the November sales in his territory because it was his responsibility to seek advice from upper level management about an outside region manager's request to make a sale in the claimant's territory. This is especially true as a new manager.

Since the employer took steps to resolve the issue as quickly as possible, the claimant's fear that this would happen again is based on speculation, not facts. Based on the facts in this case, the claimant quit for compelling reasons but his reasons for quitting do not qualify him to receive benefits. As of May 15, 2011, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment he may have received since May 15, 2011, will be remanded to the Claims Section to determine.

DECISION:

The representative's July 12, 2011 determination (reference 01) is reversed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 15, 2011. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he may have received since May 15, 2011, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs