

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK D FRUEH

Claimant

APPEAL NO. 08A-UI-09574-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHWAN'S HOME SERVICE INC

Employer

**OC: 08/03/08 R: 03
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Mark Frueh filed an appeal from a representative's decision dated October 7, 2008, reference 01, that denied benefits based upon his separation from Schwan's Home Service, Inc. After due notice was issued, a hearing was held in Ottumwa, Iowa on December 11, 2008. Mr. Frueh participated personally. The employer participated by Matthew Wiley, General Manager, and Troy Rebeck, Assistant General Manager. Exhibit One was received into evidence.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from May 21, 2007 until July 17, 2008 when he voluntarily quit work. Mr. Frueh was hired to work as a route sales manager and was paid by commission. His immediate supervisor was Matthew Wiley.

Mr. Frueh left his employment with Schwan's Home Service, Inc. based upon increasing dissatisfaction with numerous aspects of his employment. The claimant was aware at the time of hire that he was being hired on a commission basis and that the guaranteed pay would be reduced after a training period had expired and a route had been assigned to the claimant. Although Mr. Frueh signed an agreement to that effect, he nonetheless believed that representations from the previous manager would result in the claimant being paid a minimum of \$130.00 per day while employed by the company.

Mr. Frueh was also dissatisfied as he thought that the route he was assigned to was unprofitable and that the employer was unwilling to assign him to a better route when it became available. Mr. Frueh was also dissatisfied because the company would not authorize him to take the company vehicle to his residence and because vacation time had not been authorized.

Although his company truck had been inspected, claimant nevertheless continued to believe that it was unsafe.

Mr. Frueh left his employment with Schwan's Home Service, Inc. when he was told that he had the option of resigning his position with the company by the assistant manager. The claimant at that time was indicating numerous areas of dissatisfaction about his employment to the assistant manager. Work continued to be available to Mr. Frueh at the time that he chose to leave.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant had good cause attributable to the employer for leaving his employment. It does not.

The evidence in the record establishes that Mr. Frueh signed an agreement at the time of hire indicating that the guaranteed pay was for a limited purpose and that the claimant's pay would revert to commission only after training had been completed. See Exhibit One. Although Mr. Frueh maintains that he had been promised by a previous manager that \$130.00 guarantee per day would continue, the evidence establishes that Mr. Frueh continued employment after the \$130.00 per day guarantee had elapsed. The evidence establishes that as time progressed Mr. Frueh became increasingly dissatisfied based upon what he considered to be lower than expected income and the failure of the company to assign him to preferred routes.

The evidence in the record establishes the claimant indicated that he believed that his company truck was unsafe and the employer acted by having the truck inspected and determined that it was safe to operate. Mr. Frueh continued to be increasingly dissatisfied and left his employment while vocalizing his dissatisfaction to an assistant manager. The assistant manager did not discharge the claimant but merely informed the claimant that he had the option of resigning if he were dissatisfied with his work with the company.

While Mr. Frueh's reasons for leaving employment were undoubtedly good from a personal viewpoint they were not attributable to the employer. The claimant should have known at the time of hire that his guaranteed commission was for a limited period of time during training and would not continue. The employer had no obligation to provide any other benefits to the claimant such as preferred routes or taking his vehicle to his residence.

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.

For the reasons stated herein the administrative law judge concludes that the claimant voluntarily quit work for reasons not attributable to the employer.

DECISION:

The representative's decision dated October 7, 2008, reference 01, is affirmed. The claimant voluntarily quit work for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs