

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**GEORGE L WOOD
1090 PARKVIEW DR
MARION IA 52302-2767**

**ALLEN MOTOR COMPANY
1040 N CENTER POINT RD
HIAWATHA IA 52233**

**Appeal Number: 06A-UI-06440-LT
OC: 05-21-06 R: 03
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the June 12, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 12, 2006. Claimant participated. Employer did not participate. The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time commissioned salesman for the past eight years through May 22, 2006 when he quit. Employer usually issued a commission check on the 5th of the month and a \$1,000.00 draw against commission on the 18th of each month. Claimant agreed to employer's

withholding of the commission checks and vacation pay three months prior to the separation for repayment of borrowed funds. On or about May 18, claimant discovered employer intended to, without his permission, withhold the draw check for six months, thus leaving claimant without any compensation whatsoever.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment 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.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

In general, a substantial pay reduction of 25 to 35 percent or a similar reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. EAB*, 433 N.W.2d 700 (Iowa 1988). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Inasmuch as the claimant would suffer an involuntary 100 percent reduction in pay for six months, the change of the original terms of hire is considered substantial. Thus, the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The June 12, 2006, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

dml/kkf