

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN BRONNER**  
Claimant

**APPEAL NO: 18R-UI-10079-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 07/29/18**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant, Steven Bronner filed an appeal from the August 17, 2018, (reference 01) unemployment insurance decision that denied benefits. A first hearing was scheduled but not conducted on September 13, 2018. The claimant's appeal was dismissed when he failed to appear for the hearing. (See 18A-UI-08990-JE-T). The claimant successfully requested reopening to the Employment Appeal Board (EAB) who remanded the case for a new hearing.

The parties were properly notified about the hearing. A telephone hearing was held on October 22, 2018. The claimant participated personally. The employer participated through Thomas Kuiper, hearing representative. Mark Wilson, mortgage manager, testified.

Claimant Exhibit A and Employer Exhibit 1 were admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a mortgage salesperson and was separated from employment on July 24, 2018, when he quit the employment. Continuing work was available.

When the claimant was hired, he accepted pay would be \$12.00 per hour plus commission. The claimant was also given sales/production goals and would be paid based upon his production. During the claimant's first year of employment, he did not make his sales goals, but was not disciplined. The claimant opined the employer's rates, unrealistic expectations and steady competition from other lenders contributed to his lack of production.

On July 3, 2018, with a new manager, the claimant was issued a 60 day action plan in response to failing to make his production goals. The plan would have ended on September 3, 2018. As

part of the plan, the employer outlined its expectations for the claimant and provided guidance such as how many phone calls the claimant should be making, to help boost his production. On July 16, 2018, the claimant tendered his resignation, (Employer Exhibit 1) after determining he would not be able to meet the sales expectations outlined in the action plan, and not wanting to have a discharge on his work history record.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit without good cause attributable to the employer according to Iowa law. Benefits are denied.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(21) and Iowa Admin. Code r. 871-24.25(33) provide:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The claimant has the burden of proof to establish he quit with good cause attributable to the employer, according to Iowa law. 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. 871 IAC 24.25. "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

In this case, the claimant was hired and worked in the capacity as a mortgage salesperson. He knew that his pay would be dependent upon the success of his sales, and that the employer expected him to meet certain production goals. In light of not meeting his goals for a year, he was not disciplined until July 2018.

The claimant was placed on a 60 day action plan on July 3, 2018, and less than two weeks later, tendered his resignation. Recognizing the claimant's concern of not meeting expectations or possibly being discharged, the claimant quit approximately six weeks before the 60 day plan ended. No decision had been made at the employer to discharge the claimant and the claimant was not given an option to resign or be discharged. Rather, the claimant preemptively quit the employment to protect his professional record. Based on the evidence presented, the administrative law judge concludes the claimant's leaving the employment may have been based upon good personal reasons, but it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

**DECISION:**

The August 17, 2018, (reference 01) decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

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