

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEROME D RIMER**  
Claimant

**APPEAL NO. 07A-UI-01482-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MILLARD LUMBER INC**  
Employer

**OC: 01/14/07 R: 02  
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 8, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 6, 2007. Claimant participated personally and was represented by Michael Manno, Attorney at Law. Claimant's witnesses included Tim Lee, Ken Schmeling and Lennie Burchfield. Employer participated by Bob Rossiter, Attorney at Law with witnesses Rob Sturgis, Human Resources Manager, Patrick Cardwell, General Manager, Greig McGinness, Office Supervisor and Jeff Brink, Warehouse Supervisor. Exhibit One was admitted into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on January 4, 2007. Claimant quit because of harassment, overcharging customers and diminished rate of pay. Claimant made complaints on the issues. Claimant was losing customers due to the mistakes made by the employer. Clients were being double charged for product because returns were not being credited. Claimant's commissions ran around \$4,500.00 per month. Claimant's last commission check for December 2006 was only \$1,100.00. Claimant lost two major customers in December, which in turn resulted in a major drop in his commission. The loss of the customers was in part due to employer conduct when servicing the accounts.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a significant cut in commission. Employer's conduct was in part the cause for claimant losing two of claimant's best customers. This in turn cut claimant's commission significantly. This is a significant change in the contract of hire. Claimant brought

many customers with him. Claimant had the right to expect service that would allow him to keep his customers. Employer's inability to properly service the accounts resulted in substantially diminished commissions. Such is good cause for a quit.

Claimant's quit for harassment is not persuasive. The name calling and gossip were not such that one would give up their job and quit. However, one needs only a single reason to establish good cause for a quit. As such benefits are allowed due to the change in the contract of hire.

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.

**DECISION:**

The decision of the representative dated February 8, 2007, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/pjs