

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON D OWEN
Claimant

MIDAMERICAN CAREER ASSOCIATES INC
Employer

APPEAL NO. 09A-UI-07529-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/09
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 11, 2009, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 18, 2009. Claimant participated. Employer participated by Patrick Lage and was represented by Nancy Wood, Attorney at Law. Exhibit 1, pages 1—4, 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 April 6, 2009. The claimant submitted a letter of resignation on that date. The claimant was hired as Executive Vice President/ Business Development as of December 1, 2008. He signed a Compensation and Benefit Agreement with his employer on November 21, 2008. Exhibit 1, page 4. The parties signed a new Compensation and Benefit Agreement on March 10, 2009. Both agreements provided the employer could change the terms of the agreement. On March 26, 2009, the claimant was told he could no longer see self-sponsoring clients and therefore was not able to receive a commission on those clients. The March 10 agreement allowed for a commission for those clients. The claimant was hired to develop corporate clients who would use the services of the employer as well as other duties. The claimant did not develop any corporate clients. The claimant experienced a one-time delay in having his paycheck clear and felt the employer acted in a threatening manner towards him.

REASONING AND CONCLUSIONS OF LAW:

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant quit his employment. The issue is whether he had good cause attributable to the employer.

The evidence does not support a finding of voluntary quit for good cause attributable to the employer for the one-time slight delay in the cashing of the claimant's paycheck and the alleged inappropriate conduct. The delay experience by the claimant appears to have been minimal and a one-time occurrence. The claimant has failed to prove the employer threatened him.

The employer reserved the right to adjust compensation in the March 10 agreement. The employer felt that the claimant was not scheduling clients properly and was not presenting the correct image for the employer in serving self-sponsored clients. The employer also wanted to develop corporate clients. When the employer took the claimant's ability to earn commissions on self-sponsored clients the employer made a substantial change in the March 10, 2009 contract. The employer has the right under the agreement to make business decisions to change the claimant's terms of employment. Under unemployment law if the change is substantial and an employee quits due to that change, the quit is deemed to be with good cause attributable to the employer. The claimant testified he faced a substantial reduction in pay when he was no longer able to receive commissions on self-sponsored clients. That testimony is convincing that there was a substantial change in his contract of hire.

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 substantial change in contract of hire.

DECISION:

The decision of the representative dated May 11, 2009, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/pjs