

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HOWARD P SNOOK
Claimant

APPEAL NO. 09A-UI-14902-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

INFINITY CONTACT INC
Employer

OC: 08-30-09
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 25, 2009, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on November 3, 2009. The claimant did participate. The employer did participate through Armond Dawson, Director of Contact Center, (representative) Cathy Barrett, Director of Human Resources and Justin Harberts, Supervisor.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a contact center representative/account representative full time beginning June 2, 2007 through September 2, 2009 when he voluntarily quit.

The claimant was hired under a particular commission schedule that paid him commission based upon the number of sales he made with no consideration given to the revenue generated from each sale. In late July 2009 the employer announced to the employees that the commission schedule was going to be changing to a revenue based model. A new commission schedule was implemented for the month of August effective August 1. The claimant had misgivings about the new commission schedule and expressed those to the employer. The claimant worked during the month of August as hard as he could to make sales and did make twelve sales. Under the new commission policy he was not paid any commission for the twelve sales. Under the commission policy that existed prior to August 1, 2009 the claimant would have been paid \$504.00 in commission. The claimant then quit his employment solely due to the change in the commission policy. The claimant believed due to the poor state of the economy that the customers were not going to buy as much product and that the revenue based commission policy would cause him to earn less.

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). The employer changed the commission schedule to make commissions based upon revenue in order to benefit them not the employees. The administrative law judge is persuaded that the claimant lost commissions in the amount of \$504.00 for the month of August due to the change in the commission policy. The claimant did work to the best of his ability and did try to earn the commission and did not take any actions to hinder his sales. The claimant did not acquiesce in the change to the commission schedule by trying it out for one month.

Inasmuch as the claimant would suffer a substantial loss of his rate of pay, 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 September 25, 2009, reference 01, decision is affirmed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs