

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATHAN A BRITTENHAM
Claimant

APPEAL NO. 10A-UI-06195-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

MEDIACOM COMMUNICATIONS CORP
Employer

**Original Claim: 02/28/10
Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Nathan Brittenham (claimant) appealed a representative's April 14, 2010 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Mediacom Communications Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for June 8, 2010, in Des Moines, Iowa. The claimant participated personally. The employer did not appear for the hearing and, therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on August 5, 2009, as a full-time sales representative. The employer promised to pay the claimant commission for sales. He was supposed to earn \$50.00 extra for each customer who switched from another company to the employer's company. The employer did not pay the claimant as agreed. The claimant complained and the employer agreed the claimant should have received in excess of \$1,000.00 in commission that he did not receive. The employer still did not pay the claimant the commission. On October 18, 2009, the claimant quit work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer that he was leaving and quit work. In the absence of agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 140 Nebraska 889, 2 N.W.2d 332 (1942).

When an employee quits work because the employer did not pay wages when they were due without an agreement to the contrary, his leaving is with good cause attributable to the employer. The claimant left work because he was not paid his wages when they were due and there was no agreement to the contrary. His leaving was with good cause attributable to the employer. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's April 14, 2010 decision (reference 02) is reversed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw