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

BYRON J CHRISTO
Claimant

APPEAL NO. 06A-08751-HT

ADMINISTRATIVE LAW JUDGE
DECISION

DES MOINES REGISTER &TRIBUNE
Employer

OC: 07/30/06   R: 02
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Byron Christo, filed an appeal from a decision dated August 24, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on October 2, 2006. The claimant participated on his own behalf and was represented by Attorney Erik Fisk. The employer, Des Moines Register, participated by Advertising Sales Manager Melissa Horton and Employment Program Manager Sue Decker and was represented by TALX in the person of Cheryl Rodermund. Exhibits One and Two were admitted into the record.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Byron Christo was employed by Des Moines Register from November 7, 2002 until August 2, 2006. He was a full-time account executive. In May 2006, he was given a written warning regarding his failure to meet his sales goals in 4 out of the past 10 months, and failure to secure long-term commitment contracts from his clients. The warning notified him he would be issued a form Performance Improvement Plan (PIP) if he failed to show "immediate and sustained improvement."

On July 28, 2006, the claimant was summoned to a meeting with Advertising Sales Manager Melissa Horton, Employment Program Manager Sue Decker, and Roberta Peterson. It was the employer's intent to issue a formal 90-day PIP to the claimant. Mr. Christo attended the meeting but before any discussion of the details of the PIP could be discussed, he declared he would not be able to meet the goals set by the employer.

The claimant was asked if he would feel it was in his best interests to resign and he said yes and submitted both a verbal and a written resignation at the meeting, indicating his last day would be August 2, 2006. The employer had no intent to discharge him at that time, but only to implement the PIP, although the claimant had been notified previously that failure to meet the PIP expectations could result in discharge.

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 24.25(28) provides:

> 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:

> (28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2)

The claimant's decision to quit after having been reprimanded was not a good-cause reason attributable to the employer for leaving under the provisions of the above Administrative Code section. Benefits are denied.

DECISION:

The representative's decision of August 24, 2006, reference 01, is affirmed. Byron Christo is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeyer
Administrative Law Judge

_____
Decision Dated and Mailed

bgh/kjw