

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERRY D NOBLE

Claimant

APPEAL NO. 10A-UI-00778-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KAVALIER & ASSOCIATES PC

Employer

**Original Claim: 12/20/09
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated January 12, 2010, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 25, 2010. Claimant participated. Employer participated by Deb Kavalier, Office Manager, and Jason Kavalier, Practice Administrator. Exhibits One and A were 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 having considered all of the evidence in the record, finds: Claimant last worked for employer on August 6, 2009. Claimant worked as a therapist on commission. Claimant earned 50 percent of all income up to \$80,000 and 60 percent of all income above \$80,000. Employer changed the formula unilaterally on August 1, 2009. Claimant was forced into a new formula that would lower his pay. The new formula paid 45 percent up to \$100,000 and 55 percent over \$100,000 of gross receipts.

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 unilateral reduction in pay imposed by employer. This is a significant change in pay, which qualifies as a significant change in the contract of hire. Since the reduction in pay was attributable to employer, this is good cause for a quit. Benefits allowed.

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 January 12, 2010, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw