

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREGORY T LEDUC
Claimant

APPEAL NO. 10A-UI-00815-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHUKEI CHEVROLET INC
Employer

OC: 07-019-09
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(4) – Intolerable Working Conditions
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 7, 2010, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on February 24, 2010. The claimant did participate. The employer did participate through Scott Weir, Sales Manager.

ISSUE:

Did the claimant voluntarily quit his employment with 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 sales representative full time beginning in August 2009 through December 5, 2009 when he voluntarily quit.

The claimant answered an advertisement for a sales job that promised one weekend off per month. When he was hired, Terry, his supervisor and the sales manager, told him that he could only have one weekend off every six weeks or so. The claimant was never given a weekend off. The claimant was also hired with the understanding that he would have every Thursday off as his day off. The employer admits that employees who were not meeting sales goals were strongly encouraged to work on their day off. The claimant was never told that if he was not meeting his sales goals he would have to give up his day off. The claimant was intimidated into working on his day off.

The claimant was told that his sales goal for the first three months of his employment would be seven cars per month. Terry, the previous sales manager unilaterally changed the claimant's goal for October without the claimant's consent causing the claimant to miss out on a bonus as he only sold six and one-half cars for the month of October. Mr. Weir promised to recoup the claimant's bonus for him but never did.

At a sales event the claimant was told that he needed to be a “sleazy used car salesman.” The claimant did not want to engage in conduct that pushed the limits of ethical selling or treatment of customers. At least one of the other salesmen, Paul, was given a price sheet that was not given to other salesmen.

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 § 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), (4), (23) 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.

(4) The claimant left due to intolerable or detrimental working conditions.

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

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). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). The employer knew of the work environment, as they created it and were the ones that would not pay the bonus the claimant had earned as well as denying him his time off.

The claimant has established that the terms he was hired under, including time off and sales goals were unilaterally changed by the employer. The claimant was not paid a one-thousand dollar bonus he was entitled to due to the changes made by the employer. Under such circumstances the claimant has established both a substantial change in the contract of hire and an intolerable work environment. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The January 7, 2010, 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