

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KEVIN A FREEMAN**

Claimant

**APPEAL NO. 15A-UI-10911-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALORICA BUSINESS SOLUTIONS**

Employer

**OC: 09/06/15**

**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Kevin Freeman, the claimant, filed a timely appeal from a representative's decision dated September 28, 2015, reference 01, which denied unemployment insurance benefits finding that the claimant voluntarily quit work on August 21, 2015 because he did not like the work environment. After due notice was provided, a telephone hearing was held on January 4, 2016. Claimant participated. Participating on behalf of the claimant was Mr. Michael J. Tullis, Attorney/Iowa Legal Aid. The employer did not participate. The employer's participation was barred by sanctions imposed for the employer's failure to respond to the discovery proceedings. Claimant's Exhibit A was admitted into the hearing record.

**ISSUE:**

The issue is whether the claimant left his employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Kevin A. Freeman was employed by Alorica Business Solutions from May 25, 2015 until August 21, 2015 when he left employment due to repetitive failure on the part of the employer to pay the claimant the agreed upon pay and benefits for his work.

Beginning with the claimant's paycheck for July 16, 2015, Mr. Freeman began experiencing substantial shortages in accrued pay and benefits that he was being paid by the company. Although Mr. Freeman repetitively brought the mistakes to the attention of his immediate supervisor, and the supervisor promised corrections, the corrections did not take place causing the claimant personal financial distress. When the matter had not been resolved by August 21, 2015, Mr. Freeman left his employment believing that he had given the employer a reasonable opportunity to correct the shortages but they had not done so.

## REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Board, 492 N.W. 2d 438 (Iowa Ct. App. 1992). 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. See 871 IAC 24.25.

“Good cause” for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Fla. App. 1973). When a person voluntarily quits the employment due to dissatisfaction with the work environment or inability to work with other employees, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21) and (6). Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See 871 IAC 24.26(4).

In the absence of agreement to the contrary, an employer’s failure to pay wages when due constitutes good cause for leaving employment. Deshler Broom Factory v. Kinney, 2 N.W.2d 332 (Nebraska 1942).

In the case at hand, the evidence in the record establishes that Mr. Freeman did not leave his employment with Alorica Business Solutions due to general dissatisfaction with the work environment. The evidence in the record establishes the claimant’s reasons for leaving employment was the employer’s repetitive failure to pay wages when due after being notified by Mr. Freeman he was not being paid the agreed upon pay and benefits.

There being no evidence to the contrary, the administrative law judge concludes that the claimant has met his burden of proof to establish good cause for leaving employment attributable to the employer. Accordingly, the claimant is eligible to receive unemployment insurance benefits, provided that he meets all other eligibility requirements of Iowa law. The employer’s account is chargeable for benefits paid to the claimant.

**DECISION:**

The representative's decision dated September 28, 2015, reference 01, is reversed. Claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible. Benefits are chargeable to the employer.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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