

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**ANTHONY M DEFRUSCIO
305 N KILWORTH ST
EXIRA IA 50076**

**AMERICAN HOME SHIELD CORPORATION
C/O EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000**

**Appeal Number: 04A-UI-01074-AT
OC: 01-04-04 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Anthony M. DeFruscio filed a timely appeal from an unemployment insurance decision dated January 27, 2004, reference 01, which disqualified him for benefits upon a finding that he had voluntarily left employment with American Home Shield Corporation without good cause attributable to the employer. After due notice was issued, a telephone hearing was held March 11, 2004 with Mr. DeFruscio participating. Human Resources Manager Ann Fitzpatrick and Customer Service Supervisor Ronna Ehlert testified for the employer which was represented by Sandy Web of Employer's Unity.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Anthony M. DeFruscio was employed by American Home Shield Corporation from October 7, 2002 until he resigned December 30, 2003. He last worked as a customer service representative. Mr. DeFruscio was dissatisfied with many aspects of his employment. For approximately seven months prior to November 2003 Mr. DeFruscio had been working both as a customer service representative and a dispatcher. This was a lateral move rather than a promotion. His rate of pay remained the same. In November his supervisor moved him to full-time customer service work because his "average handle time," the average length of time spent on the telephone with a particular customer and time spent making notes after the particular call, was much higher than the company's standard. Mr. DeFruscio understood that the transfer would be only for one month. At the end of December, however, management kept him working strictly as a customer service representative because while his average handle time had improved, it was still higher than the company's standard.

The decision not to return Mr. DeFruscio to his additional duties as a dispatcher led him to review the other areas of dissatisfaction which ultimately led to his decision to resign on December 30, 2003. Mr. DeFruscio was unhappy that there was little opportunity for advancement. Promotions were posted within the company, but Mr. DeFruscio observed that few current employees actually received promotions. Mr. DeFruscio received a raise in the range of \$.25 to \$.33 per hour at the time of his annual review. Shortly thereafter, all employees received a memo advising them that the company would raise salaries a maximum of two percent over the next two years due to economic conditions. Mr. DeFruscio was unhappy at that prospect.

Approximately two weeks before Mr. DeFruscio resigned, he left early one evening with approval because of heavy snow. He was told at the time that he could make up the hours. This was important to him because he had volunteered to work on Saturday, December 20, in the hopes of making overtime for over 40 hours of work that week. He came to work early on Tuesday, December 16, only to leave early again because of more snow. On Wednesday, December 17, he was told that he could not make up the extra hours because the company now had no need for the extra work. He then asked to have time off on Saturday, December 20. This was denied because the company had relied upon his earlier offer to work that Saturday when scheduling employees for that day.

Mr. DeFruscio did not elect short-term disability from the company's benefits package. The company's policy concerning short-term disability was that it must be paid back if an employee voluntarily left the company within six months after receiving that particular benefit. He also felt that his premiums for medical, dental, supplemental life and long-term disability insurance, \$40.26 per week, were too high. He also felt that new employees were being hired at a higher salary than he was receiving. In this he was mistaken. When his employment ended he was earning \$12.08 per hour. The company was advertising for the shift that Mr. DeFruscio worked at \$11.85 per hour. Finally, Mr. DeFruscio was dissatisfied that the company set its standards for average handle time at a figure lower than his average. He felt that he was able to provide better customer service by taking more time on the phone. Staff meetings did not resolve these and similar issues. As a result of all of this, Mr. DeFruscio resigned to seek other employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. DeFruscio resigned with good cause attributable to the employer as that term is defined in Iowa law. It does not.

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.

One who resigns because of dissatisfaction with wages is considered to resign without good cause attributable to the employer when the individual knows the rate of pay when hired. See 871 IAC 24.25(13). The evidence does not establish that the employer violated any promises of pay raises. Neither does it establish that the company was actually hiring new employees at a higher rate of pay than Mr. DeFruscio was earning after a year on the job. The evidence does not establish that he was actually harmed by the company's short-term disability policy because he did not request short-term disability insurance. While he may have felt that his insurance premiums were high, he has offered no evidence of any broken promises or even that the employer's insurance rates were higher than standard in his area.

He has not established that the company made a habit of approving and then withdrawing approval of vacation time. He has not established that the company violated any of its policies by not allowing him to make up time he took off voluntarily because of snow.

Finally, with a resignation to seek other employment may constitute good personal cause, Iowa law does not consider it to be good cause attributable to the employer. See 871 IAC 26.25(3).

Viewing his reasons for resignation separately and also looking at the totality of the circumstances, the administrative law judge concludes that the evidence does not establish intolerable or detrimental working conditions. It does establish general dissatisfaction with the work environment. According to 871 IAC 24.25(21) resignation under such circumstances does not constitute good cause attributable to the employer. Benefits are withheld.

DECISION:

The unemployment insurance decision dated January 27, 2004, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

b/b