

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDREE C KING-BUFFALO**  
Claimant

**APPEAL NO. 07A-UI-09673-C**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACTION WAREHOUSE COMPANY LTD**  
Employer

**OC: 09/16/07 R: 02  
Claimant: Appellant (1)**

Section 96.5(1) - Voluntary Quit

**STATEMENT OF THE CASE:**

Andree King-Buffalo filed an appeal from a representative's decision dated October 15, 2007, reference 01, which denied benefits based on his separation from Action Warehouse Company, Ltd. (Action). After due notice was issued, a hearing was held on November 13, 2007 in Des Moines, Iowa. Mr. King-Buffalo participated personally. The employer did not appear for the hearing.

**ISSUE:**

At issue in this matter is whether Mr. King-Buffalo was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. King-Buffalo began working for Action on June 25, 2007 and was assigned full-time warehouse duties. At the time of separation, he was assigned to work for Superior Concrete. Mr. King-Buffalo's last day of work was July 24, 2007.

Mr. King-Buffalo was arrested during the early morning hours of July 25. The arrest was due to an outstanding warrant resulting from a domestic issue. He was released from jail on or about August 25. He did not have contact with the employer while in jail. Mr. King-Buffalo contacted Action on August 27 but no work was available as the employer was in the process of laying off workers.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. King-Buffalo became separated from Action as of July 25 due to his incarceration. He was not able to report for available work because he was in jail. Where an individual leaves employment because he is incarcerated, the separation is presumed to be a voluntary quit without good cause attributable to the employer. 871 IAC 24.25(16). In other words, Mr. King-Buffalo was separated from employment for no reason within the control of the

employer. Inasmuch as his incarceration was the sole reason for the separation, benefits are denied.

It is true the employer did not have any work for Mr. King-Buffalo when he offered his services after he was released from jail. However, the fact remains that he had already become separated on or about July 25. The employer was under no obligation to hold his job open for him. Therefore, the fact that no work was available on August 27 does not render Mr. King-Buffalo eligible for benefits. The administrative law judge appreciates that Action was laying off workers on or about August 27. The fact of a layoff does not change the characterization of a separation that predated the layoff by one month.

**DECISION:**

The representative's decision dated October 15, 2007, reference 01, is hereby affirmed. Mr. King-Buffalo left employment with Action for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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