

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JONATHAN RIBBLE
Claimant

APPEAL NO: 10A-UI-08510-E

**ADMINISTRATIVE LAW JUDGE
DECISION**

ENERGY DOCTOR OF IOWA INC
Employer

OC: 05-09-10
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 11, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, before Administrative Law Judge Julie Elder on July 27, 2010. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time national sales director for Energy Doctor of Iowa from June/July 2009 to May 10, 2010. In late February or early March 2010 the original owner of the company returned and took over the company. He removed the claimant from his \$8,000.00 per month position and placed in a sales position in the field without a salary or company credit card and was placed him in an entry level straight commission position. The claimant was spending more than he was making in that position because he had to pay for his expenses on the road including gas, phone and hotel bills. The employer also raised the price of the product making it more difficult to sell. The claimant told the employer he could no longer afford to work there and he felt as if he was paying the employer to work for it. He asked the employer if it would at least consider paying him a draw against his commission but it refused to do so. The claimant gave it his "best shot" but when it became apparent he could no longer afford to work for the employer he gave it a three-week notice May 10, 2010, but the employer let him go immediately.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer.

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.

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 from whom the employee has separated. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The 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 changed the claimant's contract of hire. He was previously national sales director earning \$8,000.00 per month but was moved to a field salesman working on straight commission where he was actually losing money. He tried to make the position work and did the best he could but the employer would not even provide him with a draw against his commission to help him make ends meet while he was on the road. Under these circumstances, the administrative law judge concludes the claimant has met his burden of proving his leaving was for good cause attributable to the employer, a change in his contract of hire, as defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The June 11, 2010, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible to receive them.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs