

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KYLE PFEIFFER
Claimant

APPEAL NO: 11A-UI-03868-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

US BANK NATIONAL ASSOCIATION
Employer

OC: 02-27-11
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 24, 2011, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on April 18, 2011. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

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 licensed professional banker for US Bank National Association from May 28, 2009 to February 25, 2011. He was told at the time of hire that he would earn approximately \$5,000.00 in commissions per year as a licensed professional banker selling fixed annuities and term life insurance. The claimant had to complete training and become licensed by the state before he could start earning commissions. He already had his state license but was not done with training when the employer pulled him out of the program without giving him a reason. The claimant was still a licensed personal banker but would not be allowed to sell any financial products and would not earn the \$3,000.00 to \$5,000.00 commissions per year he was told he would earn at the time of hire. Consequently, he chose to leave his employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without 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) 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. The law presumes a claimant has left employment with good cause when he quits because of a change in the contract of hire. 871 IAC 24.26(1). A "change in the contract of hire" means a substantial change in the terms or conditions of employment. Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). The employer did not participate in the hearing nor provide any evidence. The evidence provided by the claimant demonstrates a change in his contract of hire as he relied on the promise of commission pay when he accepted the position. The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6-2. He has met his burden of showing his leaving was due to a change in his contract of hire. Therefore, benefits are allowed.

DECISION:

The March 24, 2011, reference 01, decision is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs