

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RIK THOMPSON

Claimant

APPEAL NO. 07A-UI-05913-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION

Employer

**OC: 05/13/07 R: 12
Claimant: Respondent (2)**

Section 96.5(1) – Quit
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Qwest, filed an appeal from a decision dated May 29, 2007, reference 01. The decision allowed benefits to the claimant, Rik Thompson. After due notice was issued a hearing was held by telephone conference call on June 28, 2007. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Director of Operations Aric Birchmier and was represented by Barnett Associates in the person of Terry Newman.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Rik Thompson was employed by Qwest as a full-time customer service agent until March 29, 2007. At that time he gave a verbal resignation in person to Director of Operations Aric Birchmier he was quitting. He said he was “tired of Qwest” and when asked for specifics he only said he did not like the “processes, procedures and guidelines.” Continuing work was available to him and he was not in danger of being discharged. Mr. Thompson had not filed any complaints with the corporate reporting line or brought any concerns to the attention of his supervisors.

Rik Thompson has received unemployment benefits since filing a claim with an effective date of May 13, 2007.

REASONING AND CONCLUSIONS OF LAW:

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 24.25(21) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

The record establishes the claimant did not have good cause attributable to the employer for quitting. He apparently simply no longer wanted to work for Qwest and under the provisions of the above Administrative Code section, this is not good cause attributable to the employer. The claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of May 29, 2007, reference 01, is reversed. Rik Thompson is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$1,655.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs