

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TONI A MARLATT
Claimant

APPEAL NO. 10A-UI-17119-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

OC: 11/07/10
Claimant: Respondent (2/R)

Section 96.5-1- Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 6, 2010 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had voluntarily quit her employment for reasons that qualify her to receive benefits. This determination is identical to the reference 01, with two minor exceptions. The employer's account number is not the same and the employer's name is not identical. Since reference 01 and 02 address the same employment separation issue, the decisions for these will be identical.

The claimant participated in the hearing. Larry Lampel represented the employer. Colin Chrouser, the claimant's supervisor, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The employer hired the claimant as a full-time employee in February 2010. By October 2010, the claimant had completed her training and the employer's work performance expectations for her had increased. By late October, the claimant was looking for another job because of the stress of meeting her work performance guidelines.

On October 28, the claimant notified the employer she was ill and unable to work. The claimant had a respiratory infection. The claimant was not well enough to return to work until Friday, November 5.

On Sunday, October 31, the claimant's childcare provider notified the claimant that she was no longer able to care for the claimant's children because she was homeless. The claimant started looking into other childcare arrangements for her children. The private daycare providers the claimant contacted did not have any openings. The daycare centers the claimant contacted were almost cost prohibitive and could not take care of her children as late as the claimant needed.

The claimant was still looking into other childcare arrangements on Tuesday, November 2, when Chrouser called the claimant to find out when she thought she could return to work. The claimant explained that she was still ill and was still looking for a daycare for her children. Chrouser encouraged the claimant to make a decision as soon as possible as to whether she was coming back to work or not. Before the claimant talked to Chrouser on November 2, she had told him she would quit if she could not find a childcare provider.

The claimant's job was not in jeopardy when Chrouser talked to her on November 2. The claimant decided that since she did not like her job and was already looking for another job, she would quit. On November 3, the claimant told Chrouser she was quitting because she could not find a childcare provider. The claimant's resignation was effective immediately.

The claimant established a claim during the week of November 7, 2010. The claimant has filed for and received benefits since November 7, 2010.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-1. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2.

On November 3, the claimant quit her employment and told the employer it was because she could not find another childcare provider. The law presumes a claimant quits without good cause she leaves because she does not have child care. 871 IAC 24.25(17).

The claimant quit also because of the stress of the job. The claimant concluded she was unable to satisfy the employer's work performance expectation and could not complete her job satisfactorily. Even though the claimant felt stressed, the employer had not given her any warnings for unsatisfactory job performance and her job was not in jeopardy when she resigned. 871 IAC 24.25(33). When the claimant resigned, she was already looking for another job because she did not like the stress of the job. The evidence does not establish that she quit because of detrimental working conditions. 871 IAC 24.26(4).

The claimant quit for personal reasons, but these reasons do not qualify her to receive benefits. As of November 7, 2010, the claimant is not qualified to receive benefits. Since the claimant has received benefits since November 7, the issue of overpayment or whether she is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's December 6, 2010 determination (reference 02) is reversed. The claimant quit her employment, but she did not establish that she quit for reasons that qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of November 7, 2010. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw