

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANE A RIPLEY
Claimant

APPEAL NO. 12A-UI-03422-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MEDIACOM COMMUNICATIONS
Employer

OC: 03/04/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Jane Ripley filed a timely appeal from a representative's decision dated April 3, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on April 18, 2012. Claimant participated. The employer participated by Ms. Erin Publow, Human Resource Manager.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Jane Ripley was employed by Mediacom Communications from April 7, 2003 until March 5, 2012 when she voluntarily left employment without advanced notice. Ms. Ripley worked as a full-time internet technical support employee/customer service employee and was paid by the hour.

Ms. Ripley left her employment in anticipation that she would be unable to meet employer expectations regarding sales quotas and because the claimant felt some managers believed that the claimant had a negative attitude.

Approximately two years before the claimant's leaving employment, the company began to implement a number of changes in the job duties of the claimant as well as other workers. The company began to implement the sale of company products along with technical support. In an effort to make the program successful, the employer provided training to employees and reviewed sales progress approximately once every three months. Ms. Ripley was not accustomed to making sales in conjunction with her tech support duties and found the sales aspect to be difficult. The claimant met with her supervisor and manager on occasions and management attempted to encourage the claimant and offered additional training and sales advice.

Approximately two weeks before the claimant's leaving of employment, a manager informed the claimant that in the future the sales quota reviews would be undertaken every two months and possibly every month. Because of what the claimant considered to be the enhanced possibility that she might not make the employer's expectations and might be discharged, Ms. Ripley elected to leave her employment with the company. The claimant had taken references by management to a "negative attitude" as a personal condemnation of her. The statements it appears, however, were made in response to the claimant's inquiry about why her sales were not better. At the time of leaving, the claimant's employment was not in jeopardy. The claimant had visited two doctors in the weeks preceding her leaving. Ms. Ripley did not indicate to her employer that she had been advised to leave work by a physician. The claimant instead had provided doctors' notes excusing her absences.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment without 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 24.25(33) 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

In voluntary leave cases the claimant has the burden of proof in establishing that he or she left employment with good cause attributable to the employer. An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if the conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991).

In this matter Ms. Ripley left her employment due to general dissatisfaction with changes that were being implemented by the employer over a period of time and because the claimant anticipated that she might be discharged at some uncertain date in the future if she were unable

to meet sale quotas at that time. At the time that the claimant left employment her employment was not in imminent jeopardy. The employer was generally satisfied with the claimant's sales performance during recent weeks. The most recent warning the claimant had received took place on November 4, 2011. At that time the claimant had received a verbal warning about her sales performance. Although the employer appeared to be satisfied and understood that the claimant was attempting to improve her performance, Ms. Ripley believed that her personal performance was less than satisfactory and anticipated that she eventually would be discharged. Claimant, therefore, left her employment on March 5, 2012. At that time the claimant had presented doctors' notes excusing a previous absence. The claimant had not referenced that she had been advised to leave by a doctor and had provided no medical documentation to that effect.

While Ms. Ripley's reasons for leaving were undoubtedly good from her personal viewpoint, they were not good cause reasons attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated April 3, 2012, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs