

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MESHA A TAYLOR
Claimant

APPEAL NO. 10A-UI-02165-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

OC: 01/03/10
Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Qwest Corporation filed an appeal from a representative's decision dated February 1, 2010, reference 01, which held that no disqualification would be imposed regarding Mesha Taylor's separation from employment. After due notice was issued, a hearing was held by telephone on May 6, 2010. The employer participated by Todd Welch, Telesales Manager, and was represented by John O'Fallon of Barnett Associates. Ms. Taylor was not available at the number provided at the scheduled time of the hearing.

ISSUE:

At issue in this matter is whether Ms. Taylor was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Taylor began working for Qwest on July 20, 2009 as a full-time sales and service associate. Her last day at work was November 12, 2009. She did not report for work or notify the employer of her intentions after that date. When the employer had not heard from her, a letter was sent on November 17 advising that she had to return to work by November 20 or the employer would assume she was choosing not to continue her employment. Ms. Taylor did not return to work or contact the employer in response to the letter. Continued work would have been available if she had continued to report for work or had contacted the employer regarding her intentions.

Ms. Taylor filed a claim for job insurance benefits effective January 3, 2010. She has received a total of \$1,822.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

The evidence of record establishes that Ms. Taylor voluntarily quit when she abandoned her job by not reporting for available work after November 12, 2009. An individual who leaves

employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Taylor did not participate in the hearing to explain why she stopped going to work. The evidence of record does not establish any good cause attributable to Qwest for the separation. As such, she is not entitled to job insurance benefits.

Ms. Taylor has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated February 1, 2010, reference 01, is hereby reversed. Ms. Taylor voluntarily quit her employment with Qwest for no good cause attributable to the employer. Benefits are denied until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. Taylor will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css