

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGE K JENKINS
Claimant

APPEAL NO. 11A-UI-16313-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

**OC: 11/20/11
Claimant: Respondent (2-R)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Qwest Corporation filed a timely appeal from an unemployment insurance decision dated December 15, 2011, reference 01, that allowed benefits to George K. Jenkins. After due notice was issued, a telephone hearing was held January 24, 2012 with Sales and Service Manager James Walford testifying for the employer which was represented by John O’Fallon of Qwest Corporation. Mr. Jenkins did not provide a telephone number at which he could be contacted. The administrative law judge takes official notice of agency benefit payment records.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

George K. Jenkins was employed as a customer service and sales representative by Qwest Corporation from April 25, 2011 until November 21, 2011. Mr. Jenkins was late for work on November 10, 2011. He did not report to work or contact the employer thereafter. On November 17, 2011, the company sent a letter to Mr. Jenkins instructing him to return to work not later than 9:00 a.m. on November 21, 2011. The claimant did not respond to that letter.

Mr. Jenkins has received unemployment insurance benefits since filing a claim effective November 20, 2011.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that the claimant left work with good cause attributable to the employer. It does not.

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.

The claimant has the burden of proof. See Iowa Code § 96.6-2. The claimant did not participate in the hearing. The evidence in this record establishes that Mr. Jenkins abandoned his job by being absent without contact for over a week. Benefits are withheld.

Iowa Code § 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The question of whether the claimant must repay the benefits he has received is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated December 15, 2011, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The question of repayment of benefits is remanded.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs