

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JODY J WESTENDORF
437 GREAT WESTERN AVE
OELWEIN IA 50662

QWEST CORPORATION
c/o EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000

Appeal Number: 04A-UI-07737-HT
OC: 06/13/04 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Quit

STATEMENT OF THE CASE:

The claimant, Jody Westendorf, filed an appeal from a decision dated July 6, 2004, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 9, 2004. The claimant participated on her own behalf. The employer, Qwest, participated by Customer Services Managers Cheryl Hayes and Daniel Dare and was represented by Employers Unity in the person of Connie Stewart.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jody Westendorf was employed by Qwest from January 21, 2002 until April 27, 2004. She was a full-time customer consultant.

The claimant requested and was granted a period of short-term disability from January 19 until April 4, 2004. This was due to personal problems arising from an abusive personal relationship. During the time she was off, the claimant moved to another city. She was unable to extend her leave beyond April 4, 2004, although some extensions had been given prior to that. She talked with Customer Service Manager Cheryl Hayes on April 27, 2004 stating she was unable to return to work in Des Moines, but the employer had no positions available in the area where she had moved.

The claimant did not have a restraining order against her domestic partner at the time she quit. There is also no evidence any of the abuse occurred on the employer's property or otherwise while she was working.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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(2) 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:

- (2) The claimant moved to a different locality.

The claimant quit because she moved to another locality in order to deal with the problems in her domestic situation. Prior to moving and quitting, she had taken no other steps such as restraining orders or criminal prosecution. In addition, the employer was not involved, directly or indirectly, in any of the incidents, and the decision to quit was not attributable to the employer. She is disqualified.

DECISION:

The representative's decision of July 6, 2004, reference 01, is affirmed. Jody Westendorf is disqualified, and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/tjc