

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELAINE L ARCHER
Claimant

APPEAL NO. 10A-UI-02015-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

**Original Claim: 1/10/10
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated January 27, 2010, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 17, 2010. The claimant participated. The employer participated by Brandon White, customer service supervisor. The employer was represented by Larry Lampel. The record consists of the testimony of Elaine Archer and the testimony of Brandon White.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The claimant worked as a customer service and sales representative for the employer at its worksite in Sioux City, Iowa. She was hired in March 2007. The claimant sold her house and had to make a decision on whether to move further north to Sioux City or south to Omaha, Nebraska, where her family lived. The claimant decided to move to the Omaha area because she had had a heart attack and had been hospitalized in Sioux City and none of her family was able to be with her. The claimant gave her employer two weeks' notice, and her last day of work was December 3, 2009. The employer accepted her resignation. Work was available for her at the time she resigned.

REASONING AND CONCLUSIONS OF LAW:

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case is uncontroverted that the claimant initiated the separation of employment. She wanted to move from the Sioux City area to the Omaha area, where her family lived. She had health concerns following a heart attack. The employer accepted her resignation. Although the claimant had compelling personal reasons for moving and resigning her position, these reasons are not for good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated January 27, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw