

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**OMAR T DUNCAN**  
Claimant

**APPEAL NO. 10A-UI-06798-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MEDIACOM COMMUNICATIONS CORP**  
Employer

**OC: 03-28-10**  
**Claimant: Appellant (4)**

Iowa Code § 96.5(1)a – Voluntary Leaving/Other Employment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 27, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 8, 2010. The claimant did participate. The employer did participate through Sara Blair, Manager of Human Resources. Claimant's Exhibit A was entered and received into the record.

**ISSUE:**

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed through July 23, 2009 when he voluntarily quit by being a three-day no-call/no-show for work on July 19, 20 and 21 thinking he had another job. The claimant thought he was going to be employed with Wells Fargo, but Wells Fargo did not make a job offer to the claimant until July 30, 2010, after he had already quit Mediacom and then Wells Fargo withdrew the job offer because the claimant did not pass their background check. The claimant performed no work for Wells Fargo and received no wages from Wells Fargo.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

871 IAC 23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment but did not perform services for the subsequent employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The April 27, 2010 (reference 01) decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 320421) shall not be charged.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/css