

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY M WELLS DUNCAN
Claimant

APPEAL NO: 12A-UI-15143-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARKETLINK INC
Employer

OC: 01/15/12
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 14, 2012 determination (reference 11) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Amy MacGregor, the human resource manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits, or did the employer discharge her for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on April 11, 2012. The employer hired her to work as a full-time sales representative. The claimant resigned on May 1, 2012. The employer understood she resigned because she did not want the employer at a future date to discharge her for on-going attendance issues. If she had not resigned, the claimant had continued employment after May 1.

The administrative record reveals a determination on this separation had already been determined on June 19, 2012 (reference 06). The June 19 determination disqualified the claimant from receiving benefits and no one appealed that determination.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or the employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The facts do not establish that the employer discharged the claimant. Instead the claimant voluntarily quit this

employment. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when she resigns because she believes her job performance is not satisfactory even though the employer has not asked her to resign and there is continued work for the claimant. 871 IAC 25.24(33). The claimant may have had compelling reasons to resign, but she quit for reasons that do not qualify her to receive benefits. As of May 1, 2012, the claimant is not qualified to receive benefits.

Since the June 19, 2012 determination (reference 06) was not appealed, the claimant's May 1 employment separation had already been addressed in the June determination. As a result, the December 14, 2012 determination (reference 11) should not have been issued.

DECISION:

The representative's December 14, 2012 determination (reference 11) is reversed and should be deleted because the representative had no legal authority to issue a determination when the May 1, 2012 employment separation had already been decided by a June 19, 2012 determination (reference 06). If the December 14, 2012 determination is not deleted it is reversed because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. Just as the June 19 determination indicated the claimant is disqualified from receiving benefits as of May 1, 2012. This disqualification continues until the claimant has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll