

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE L SKINNER
Claimant

APPEAL NO. 09A-UI-14698-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

**Original Claim: 09/13/09
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Nicole L. Skinner (claimant) appealed a representative's October 1, 2009 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Qwest Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 29, 2009. The claimant participated in the hearing. Steve Zaks of Barnett Associates appeared on the employer's behalf and presented testimony from one witness, Kayla Elmore. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on July 10, 2006. She worked full-time as a credit consultant in the employer's Des Moines, Iowa, call center. Her last day of work was September 3, 2009. She called in sick on September 4; September 7 was a holiday.

On September 8 the claimant called her supervisor, Ms. Elmore, between 9:00 a.m. and 9:30 a.m., prior to the claimant's 9:30 a.m. start time. She told Ms. Elmore that she was too embarrassed and humiliated about a situation that had occurred at work on September 3 to return to work, and she was going to quit, and might move to another city. She asked Ms. Elmore to box up her belongings and she would make arrangements to retrieve them later.

About an hour later she called Ms. Elmore back. She told Ms. Elmore that she had been irrational and overemotional, and that she did not really want to quit, but that she needed some time to figure some things out. Ms. Elmore indicated that the claimant should let her know what she figured out. At about 4:30 p.m., having not heard back from the claimant, Ms. Elmore called the claimant and left a message that she was leaving for the day, but that she still needed to hear back yet that day if the claimant had gotten things figured out. She left her cell phone for the claimant to call back. The claimant did not call back to advise Ms. Elmore as to her status that day.

On September 9 the claimant called in to report an absence. Ms. Elmore learned she had done so, and called the claimant back at around 10:00 a.m. She told the claimant that when the claimant had not taken any further action to contact the employer on September 8, the claimant's resignation had been accepted.

On September 10 the claimant again called in to report an absence, so again Ms. Elmore called her back to tell her she need not call in absences, that her employment was deemed ended by her resignation on September 8.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). In her first phone call on September 8, the claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. In the absence of some policy or agreement to the contrary, an employer is not required to allow an employee to withdraw a clearly offered resignation. Langley v. Employment Appeal Board, 490 N.W.2d 300 (Iowa App. 1992). While the employer here may have had some willingness to allow the claimant to withdraw her resignation had she provided information by the end of the day on September 8, the claimant did not provide that information, and the employer was within its rights to proceed to accept the previously tendered resignation. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with coworkers or a supervisor is not good cause. 871 IAC 24.25(6), (21), (22). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's October 1, 2009 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of September 8, 2009, benefits are withheld until such time as 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw