

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT HU**  
Claimant

**APPEAL NO. 10A-UI-13992-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AT&T MOBILITY SERVICES LLC**  
Employer

**OC: 08-15-10**  
**Claimant: Respondent (2-R)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the October 5, 2010, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 8, 2010. The claimant participated in the hearing. Chelsea Virgin, Retail Sales Manager; Jeff Welch, Area Sales Manager; and Marcie Schneider, Employer Representative, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time retail sales consultant for AT&T Mobility Services from October 8, 2007 to August 13, 2010. He voluntarily quit for personal reasons. The claimant did not like working as many hours as he was being scheduled, he had difficulty adjusting to the new supervisor, and he was being investigated for an outside business he had. The claimant's hours increased to 50 hours per week in June 2010 when the iPhone was launched. The sales lasted longer because of inventory and supply issues. He worked an average of 60 hours in July 2010 and 50 hours in August 2010. The claimant also had issues with Manager Chelsea Virgin, who started in February 2010. He did not like her management style. He was targeted for things he had done in the past and received a written warning for accessing an account. He went to human resources and he said human resources said what he did was okay, but the employer disagrees with that claim. The last issue that prompted him to quit had to do with the asset protection team investigation. They were investigating him for a conflict of interest because he was personally selling on his website products that were similar to what the employer offers. The claimant was frustrated that the investigation was taking too long.

The claimant has claimed and received unemployment insurance benefits since his separation from this employer.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant voluntarily quit due to personal reasons. He has always worked long hours, so that was not a change in his contract of hire, as it was not a new issue. He quit due to difficulty with his manager and aggravation and frustration that the asset protection investigation was taking too long. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. The claimant has not satisfied that burden. Therefore, benefits are denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code section 96.3-7. In this case, the claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

**DECISION:**

The October 5, 2010, reference 01, decision is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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