

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTY STONEBURNER
Claimant

APPEAL NO: 12A-UI-04212-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

**OC: 03-18-12
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 12, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 7, 2012. The claimant participated in the hearing. Mates Rounds, Sales Manager and John O’Fallon, Employer Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her 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 sales and service consultant for Qwest Corporation from October 25, 2010 to March 19, 2012. The claimant was on intermittent Family and Medical Leave (FML) starting December 19, 2011, due to the behavioral problems of her children. The claimant filed a missing person report on her 15-year-old son who was missing from March 9 to March 15, 2012, when he was found at a friend’s house. She had 172 hours of FML remaining as of March 12, 2012. Because she was on intermittent FML she was required to call and report her absences. The claimant’s last day worked was Friday, March 9, 2012. She was a no-call no-show March 12, 13 and 14, 2012. The employer called the claimant March 14, 2012, and asked her what was going on and why she had not called to report her absences for three days. The claimant indicated she was having problems with her son and did not know if she could continue working. The employer told her it was sending her a return to work letter stating she had to report for her shift Monday, March 19, 2012, or she would be considered to have voluntarily quit her job. The claimant did not call or report for work March 19, 2012, as directed and the employer considered her to have voluntarily left her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her 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(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

While the claimant had problems with her children and her 15-year-old son ran away March 9, 2012, she was on intermittent FML and simply had to call the employer to report her absences, which would then be excused. The employer called the claimant March 14, 2012, and offered her a chance to report to work or call in and use her FML beginning March 19, 2012, but the claimant failed to take either step. Inasmuch as the claimant failed to report for work or notify the employer for at least three consecutive work days in violation of the employer's policy, she is considered to have voluntarily left her employment without good cause attributable to the employer. Therefore, benefits must be denied.

DECISION:

The April 12, 2012, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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