

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PHILIP PORTER
Claimant

APPEAL NO: 10A-UI-06754-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARKETLINK INC
Employer

OC: 04/11/10
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Philip Porter (claimant) appealed an unemployment insurance decision dated May 3, 2010, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Marketlink, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 16, 2010. The claimant participated in the hearing. The employer participated through Amy Potratz, Human Resources Manager and Kim Higginbotham, Call Center Manager. 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:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time telemarketing representative from June 29, 2009 through April 9, 2010. The employer issued him a disciplinary warning on April 7, 2010 for being negative. The claimant had switched teams recently but he had problems on the previous team and was now having more problems on the new team. He did not believe the disciplinary action was warranted and refused to sign it. When he returned to work on May 3, 2010, Call Center Manager Kim Higginbotham tried to discuss the matter with him. The claimant told Ms. Higginbotham that the employer was making its employees break the law in certain states which are considered "no rebuttal" states. Ms. Higginbotham refused to argue with the claimant and asked if he was going to get back on the phone and the claimant said no and left.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out on April 9, 2010 by refusing to continue working. He contends that he quit because the employer was asking him to "break the law", but the facts do not support his contention. The employer was not asking him to break the law and the claimant admitted he quit because he knew it was not going to get better after he received the disciplinary warning. The law presumes it is a quit without good cause attributable to the employer when an employee leaves after being reprimanded. 871 IAC 24.25(28).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated May 3, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs