

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER GANG**

Claimant

**APPEAL NO. 11A-UI-11324-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AT&T MOBILITY SERVICES LLC**

Employer

**OC: 07/24/11**

**Claimant: Respondent (2-R)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Benefit Overpayment

**STATEMENT OF THE CASE:**

AT&T Mobility Services LLC filed a timely appeal from a representative's decision dated August 19, 2011, reference 01, which held the claimant eligible to receive unemployment insurance benefits, finding that she quit work on July 29, 2011, because of detrimental working conditions. After due notice was issued, a telephone hearing was held on September 21, 2011. Although the claimant provided a telephone number for the hearing, she was not available at the telephone number provided and two messages were left for the claimant. The employer participated by Mr. Tom Kuiper, hearing representative, and witnesses Ms. Patricia Richey, customer service hiring manager, and Ms. Emily Hunter, attendance manager.

**ISSUE:**

At issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Jennifer Gang was employed by AT&T Mobility Services, Inc. from April 19, 2010, until July 29, 2011, when she voluntarily relinquished her position by telephone. Ms. Gang was employed as a full-time customer service representative and was paid by the hour.

Ms. Gang began a short-term disability with AT&T Mobility Services on March 26, 2011. The claimant continued on short-term disability until requesting and receiving an approved leave of absence from May 27, 2011, through June 9, 2011. The claimant reported for work on June 10 and worked one-half day on June 11. After that date, Ms. Gang utilized accrued vacation. On June 24, the claimant reported and worked one to two hours before leaving, once again utilizing leave available through the company for care of a newborn. The claimant was expected to report back to work on July 25, 2011. On July 22, 2011, Ms. Hunter, the company's attendance manager, left messages for Ms. Gang, reminding her of the return-to-work date.

On July 29, 2011, Ms. Gang left a voice mail for Ms. Hunter indicating that she did not intend to return to work, referencing her inability to obtain daycare and also citing the fact that the

claimant was a full-time student. Work continued to be available to the claimant at the time of leaving. Employees who are dissatisfied or feel that the employer is not treating them properly can go up the chain of command or utilize a company hotline to complain of job dissatisfaction or issues. The claimant made no complaints to the employer prior to voluntarily relinquishing her position.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer. It does not.

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.

The evidence in the record establishes that AT&T Mobility Services went to great lengths to accommodate Ms. Gang and that the claimant did not complain or indicate in any manner to the employer of detrimental working conditions or working conditions that were unacceptable to her prior to leaving employment. The record establishes that the employer allowed the claimant substantial time away from work for the care of her newborn and that Ms. Gang voluntarily quit employment, citing lack of child care and her full-time educational pursuits as the reason for quitting.

There being no evidence to the contrary, the administrative law judge concludes that the claimant left employment for personal reasons that were not attributable to the employer. Unemployment insurance benefits are withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

- a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

- b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue

of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The issue of whether the claimant must repay unemployment insurance benefits is remanded to the Unemployment Insurance Services Division for a determination.

**DECISION:**

The representative's decision dated August 19, 2011, reference 01, is reversed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until 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. The issue of whether the claimant must repay unemployment insurance benefits is remanded to the Unemployment Insurance Services Division for a determination.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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