

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN I STUNDON
Claimant

APPEAL NO. 07A-UI-03349-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

OC: 03/04/07 R: 12
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Qwest Corporation (employer) appealed a representative's March 22, 2007 decision (reference 01) that concluded Karen I. Stundon (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because she voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 17, 2007. The claimant participated in the hearing. Terry Newman, a representative with Barnett Associates, Inc., appeared on the employer's behalf with Tracie Sargent, the claimant's former supervisor. 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.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The employer rehired the claimant in September 2002. The claimant worked full time. When the claimant worked for the employer, she lived over four hours from work. This resulted in a financial hardship for the claimant. The claimant did not relocate because she did not believe she could sell her home. The claimant repeatedly asked to be transferred to the Denver area. If the employer transferred her to Denver, she could have stayed with relatives. The employer did not transfer the claimant.

During the summer of 2006, the claimant decided she would resign at the end of the year. By that time, she could use all the years she had previously worked for the employer for retirement purposes. Sargent became the claimant's supervisor in early November 2006. Sargent did not initially know about the claimant's plan to retire. While Sargent supervised the claimant, she did everything she could to resolve issues the claimant had at the office. The claimant gave Sargent at

least a month's notice that she would be quitting as of December 28, 2007. The claimant just told Sargent it was time to go. The claimant took her retirement benefits when she quit.

The claimant established a claim for unemployment insurance benefits during the week of March 4, 2007. She filed claims for the weeks ending March 10 through April 14, 2007. The claimant received her maximum weekly benefits of \$334.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.1. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive unemployment insurance benefits. Iowa Code § 96.6-2. The law presumes a claimant quits with good cause if she leaves employment because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The law also presumes a claimant voluntarily quits without good cause if she leaves because of the commuting distance that is known at the time of hire. 871 IAC 24.25(30).

When the employer did not transfer the claimant to Denver, the claimant decided she would work long enough so she could bridge or use all her years of service for retirement purposes. Even though the claimant knew when the employer rehired her she was over four hours from work, she had hoped the employer would transfer her to Denver where she could work and stay with relatives. When the employer did not transfer her, the financial burden of working more than four hours from her residence was not worth it for the claimant. The claimant established compelling personal reasons for quitting. These reasons do not, however, qualify her to receive unemployment insurance benefits. As of March 4, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive unemployment insurance benefits for the weeks ending March 10 through April 14, 2007. The claimant has been overpaid \$2,004.00 in benefits she received for these weeks.

DECISION:

The representative's March 22, 2007 decision (reference 01) is reversed. The claimant voluntarily quit her employment for compelling personal reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 4, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending March 10 through April 14, 2007. The claimant has been overpaid and must repay a total of \$2,004.00 in benefits she received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw