

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KATHERINE E VANDREY**  
Claimant

**APPEAL NO. 07A-UI-08218-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MEDIACOM COMMUNICATIONS  
CORPORATION**  
Employer

**OC: 07/29/07 R: 01  
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Katherine Vandrey filed a timely appeal from the August 23, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 12, 2007. Ms. Vandrey participated and presented additional testimony through Ginger Kling and Mandy Murren. Lisa Glasgo, Customer Operations Manager, represented the employer. The administrative law judge received Exhibit D-1 and Exhibit A into evidence.

**ISSUE:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Katherine Vandrey was employed by Mediacom Communications Corporation as a full-time customer service representative from May 9, 2005 until she submitted her resignation on July 22, 2007. When Ms. Vandrey commenced the employment, she sold cable television and internet services and handled inbound customer service calls. In January or February 2006, the employer added telephone services to its product line. Ms. Vandrey sold cable television, internet and telephone services, and handled inbound customer service calls, until July 20, 2007.

The telephone service was a new product that generated a substantial number of calls from customers who were having problems with the product. At the end of 2006, Ms. Vandrey began to subscribe to the employer's telephone service. The employer did not require employees to use its products. Ms. Vandrey experienced ongoing problems with her telephone service. Ms. Vandrey began to experience a personal crisis concerning her role in marketing or marketing the telephone service. This crisis was prompted by, or compounded by, Ms. Vandrey's status as a recovering alcoholic and participation in a 12-step recovery program. One of the steps of the recovery program required Ms. Vandrey to be honest in all her dealings. Ms. Vandrey believed she was being dishonest to customers or prospective customers by continuing to market and/or sell the telephone service when she had experienced significant problems with the product. Though the employer continued to reinforce sales expectations as it

had throughout Ms. Vandrey's employment, the employer at no time suggested that Ms. Vandrey misrepresent the telephone product to customers.

On May 23, 2007, Ms. Vandrey commenced a leave of absence under the Family and Medical Leave Act. Ms. Vandrey's leave was not based on her issues with the employer's telephone service. Instead, the FMLA leave was based on significant stressors Ms. Vandrey faced outside work. Ms. Vandrey had recently become her granddaughter's primary caregiver. Ms. Vandrey's husband had suffered a workplace injury. Ms. Vandrey's son had commenced military service.

While Ms. Vandrey was on her FMLA, the employer promoted her from the position of Customer Service Representative to the position of Customer Service Associate, with a corresponding pay increase.

On July 20, Ms. Vandrey met with her immediate supervisor, Wendy Guffy. Ms. Vandrey told Ms. Guffy that because of personal circumstances at home, her health, the health of others, and because of moral issues, she could not longer perform her duties to the employer's expectations. Ms. Guffy asked Ms. Vandrey whether she was terminating her employment. Ms. Vandrey indicated that she would take time over the weekend to speak with her pastor and 12-step sponsor. On July 22, Ms. Vandrey submitted a resignation letter and voluntarily terminated her employment with Mediacom.

#### **REASONING AND CONCLUSIONS OF LAW:**

Ms. Vandrey has the burden of proving that her voluntary quit was for good cause attributable to the employer. See Iowa Code section 96.6(2) and Workforce Development rule 871 IAC 24.25.

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

871 IAC 24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it

impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

The administrative law judge concludes that the evidence fails to establish a medically-based quit. Ms. Vandrey failed to present competent medical evidence showing adequate health reasons to justify the termination. Ms. Vandrey failed to present evidence that a licensed and practicing physician recommended the quit. The evidence also indicates that Ms. Vandrey did not ask for accommodations that would allow her to continue in the employment.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The weight of the evidence fails to establish intolerable or detrimental working conditions that would have prompted a reasonable person to quit the employment. The evidence indicates that part of Ms. Vandrey's duties involved selling a less-than-stellar product. Though complete faith in the employer's product line would certainly make it easier to sell the product, it was not a prerequisite to being an effective salesperson. The evidence indicates that Ms. Vandrey sold the product from early 2006 until May 2007. The evidence fails to establish that the employer in any way suggested that Ms. Vandrey misrepresent the telephone service or lie to customers.

Workforce Development rule 871 IAC 24.25 provides that the following reasons for a voluntary quit are presumed to be without good cause attributable to the employer:

24.25(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

24.25(23) The claimant left voluntarily due to family responsibilities or serious family needs.

24.25(27) The claimant left rather than perform the assigned work as instructed.

24.25(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The weight of the evidence indicates that Ms. Vandrey voluntarily quit the employment for personal reasons that did not constitute good cause attributable to the employer. Ms. Vandrey

had significant family issues. Ms. Vandrey had her own recovery issues. Ms. Vandrey no longer wished to perform a portion of her assigned work duties. Ms. Vandrey concluded that she would no longer be able to perform to the employer's expectations, though the employer clearly felt otherwise and indicated as much by promoting Ms. Vandrey while she was on leave. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Vandrey voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Vandrey is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Vandrey.

**DECISION:**

The Agency representative's August 23, 2007, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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