

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JULIAN D BOBB**  
Claimant

**QWEST CORPORATION**  
Employer

**APPEAL 20A-UI-06407-HP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/03/20  
Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Claimant Julian Bobb filed an appeal from a June 11, 2020 (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting his employment with Qwest Corporation (“Qwest”) on May 6, 2020. Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for July 22, 2020. Bobb appeared and testified. Alyce Smolsky represented Qwest. Greg Gonnerman appeared and testified on behalf of Qwest. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

**FINDINGS OF FACT:**

Bobb commenced full-time employment as a repair service attendant with Qwest on October 31, 2016. Monica Lillard was his supervisor for the last four months of his employment. Prior to that Justin Abubo and April Juarez were his supervisors. Gonnerman supervises Lillard, Abubo, and Juarez.

Bobb worked in the Qwest Call Center, assisting customers over the phone with internet and telephone issues. If he could not resolve the problem remotely, he would dispatch a service technician to the customer. Bobb reported customers were unhappy with the service, angry, and were rude to him on the telephone. Bobb found his job stressful.

On Sunday, March 8, 2020, Bobb had multiple calls in a row he found stressful. He determined he could not take the stress and he applied for short-term disability. Qwest uses a third-party administrator to process disability and other leave requests. Managers for Qwest are not involved in the process of processing the requests. The third-party administrator notifies Gonnerman when it has approved a request. The third-party administrator approved Bobb’s request for short-term disability.

Bobb was absent from work starting on March 9, 2020. During his short-term disability leave, Bobb attended weekly sessions with Kirk Bragg, M.D., a psychiatrist. Bobb reported he had been diagnosed with depression and anxiety.

On April 20, 2020, Dr. Bragg wanted Bobb to try to go back to work. Bobb drove to work and he could not get out of the car; he was experiencing a panic attack. Bobb continued to treat with Dr. Bragg. Bobb testified Dr. Bragg recommended he quit his position with Qwest due to his mental health conditions.

On May 5, 2020, Abubo received a written resignation from Bobb. Bobb reported he could not take the stress of the job anymore. Lillard called Bobb to discuss the situation. Lillard did not testify at hearing and Gonnerman does not know what she discussed with Bobb. If he had not resigned, there was continuing work available to Bobb. He was in good standing with Qwest.

During cross-examination Bobb was asked whether he asked for another position with Qwest. Bobb testified there were no other positions available in Iowa; the openings available were in other states.

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

Iowa Code section 96.5(1) provides an individual “shall be disqualified for benefits, regardless of the source of the individual’s wage credits . . . If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.

The Iowa Supreme Court has held a “‘voluntary quit’ means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant’s departure from employment was voluntary. *Irving v. Emp’t Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016).

871 Iowa Administrative Code 24.25(36) 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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

**24.25(36)** The claimant maintained that the claimant left due to an illness or injury which was caused or aggravated by the employment. The employer met its burden of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

871 Iowa Administrative Code 24.26(6) also 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:

**24.26(6)** Separation because of illness, injury, or pregnancy.

*a. Nonemployment related separation.* The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

*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.

Bobb testified he was diagnosed with anxiety and depression. Bobb reported his job with Qwest, working with customers aggravated his conditions. Bobb sought treatment with a psychiatrist. During this period Qwest's third-party administrator approved Bobb's request for short-term disability leave. Bobb has not received additional treatment since he resigned because he does not have health insurance. Bobb reported Qwest did not have any other work available to him in Iowa when he resigned. I find Bobb was compelled to leave his position with Qwest because his employment aggravated his depression and anxiety. I find Bobb quit with good cause attributable to his employer. Benefits are allowed.

**DECISION:**

The June 11, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is reversed in favor of the claimant/appellant. Benefits are allowed, provided the claimant is otherwise eligible.



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Heather L. Palmer  
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July 29, 2020  
Decision Dated and Mailed

hlp/sam