

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

MAX M MCDONALD
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SOUTH SIOUX CITY NE 68776

QWEST CORPORATION
c/o TALX EMPLOYER SERVICES
PO BOX 749000
ARVADA CO 80006-9000

Appeal Number: 06A-UI-01963-DT
OC: 12/25/05 R: 01
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Max M. McDonald (claimant) appealed a representative's February 8, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Qwest Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 8, 2006. The claimant participated in the hearing. Sandy Fitch of TALX Employer Services appeared on the employer's behalf and presented testimony from one witness, Cliff Roblyer. One other witness, Matt Tower, was available on behalf of the employer but did not testify. 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:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on April 25, 2005. He worked full time as a center sales and service associate in the employer's Sioux City, Iowa, call center. His last day of work was July 20, 2005. The claimant had been in training since the start of his employment. He was afraid that his work performance was unsatisfactory and that he would be discharged, as he was only meeting about 50 percent of his sales quotas. However, he had not been given any warning that his job was in jeopardy. In fact, when he discussed his concerns with his trainer, Mr. Roblyer, he had been assured that the employer was confident that things would improve, and that the employer had no intentions of disciplining or discharging the claimant. Due to his concerns on his job performance, the claimant resigned on July 21, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

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.

871 IAC 24.25(33) 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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(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 claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's February 8, 2006 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of July 21, 2005, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

ld/kjw