

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFREY H WILKINS**

Claimant

**APPEAL NO: 13A-UI-07731-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**

Employer

**OC: 06/02/13**

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

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's June 21, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant participated in the hearing. John O'Fallon represented the employer. Mark Boehm, a sales supervisor, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in December 2011. He worked as a full-time home mortgage consultant.

On April 30, 2013, the employer placed the claimant on a written performance enhancement plan. The employer required the claimant to meet 80 percent of his group's goal to satisfactorily complete the plan. The employer told the claimant that either he would have the numbers to meet the goal or he would be discharged. The claimant did not want the employer to discharge him. After the claimant concluded the employer encouraged him to look for other employment, he submitted his resignation on May 17, 2013. The claimant worked until the effective date of his resignation, May 31, 2013.

Even though the employer understood the claimant resigned because he had another job, the claimant did not have another job when he resigned. The claimant resigned because he did not want the employer to discharge him and he believed his numbers would not meet the employer's goal for him. The claimant concluded the employer would discharge him on May 31, 2013. If the claimant had not submitted his resignation, the employer had continued employment for him after May 31, 2013.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if a claimant voluntarily quits his employment for reasons that do not qualify him to receive benefits, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence establishes that the claimant voluntarily quit his employment when he submitted his two-week notice on May 17, 2013. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when he leaves after receiving a reprimand or leaves because he believes his job performance does not meet the employer's expectation, provided, the employer has not requested the claimant to leave and continued work is available. 871 IAC 24.25(28), (33).

The evidence establishes that the claimant quit so he would not be discharged. The claimant knew his job was in jeopardy and he believed he would be discharged on May 31. Since the claimant did not know what his numbers would be as of May 31 and the employer testified that if the claimant had not quit, he could have continued working, the evidence does not support the conclusion that the claimant was forced to resign. Ultimately, the claimant resigned on May 17 because he was looking for another job and did not want the employer to discharge him. The claimant resigned for personal reasons, but he did not establish that he was forced to resign. As of June 2, 2013, the claimant is not qualified to receive benefits.

An issue of overpayment of benefits and whether the claimant will be required to pay back any benefits he may have received since June 2, 2013, will be remanded to the Claims Section to determine.

## DECISION:

The representative's June 21, 2013 determination (reference 01) is reversed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 2, 2013. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

The issues of overpayment of benefits and whether the claimant is required to pay back any overpayment of benefits he may have received since June 2, 2013, is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css