

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY SHORTELL

Claimant

APPEAL NO. 07A-UI-11342-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION

Employer

**OC: 10/14/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Mary Shortell (claimant) appealed an unemployment insurance decision dated December 4, 2007, reference 02, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Qwest Corporation (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 27, 2007. The claimant participated in the hearing. The employer participated through Tracie Sargent, Customer Service Representative and Steve Zacs, Employer Representative. 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:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time repair screening consultant from May 2, 1977 through May 2, 2007 when she retired after working 30 years. She was laid off in 2001 and rehired four months later to work in the repair department. She had never previously had any problems with productivity but after being placed in the new job with Supervisor Lucy Davis, she had numerous write-ups for low productivity. The claimant felt like she was on an emotional roller coaster with Supervisor Davis. She thought the way she was treated was degrading and upsetting. In September 2006, she was placed on a warning of dismissal and was given two weeks to get up her numbers or she could have been discharged. The claimant was able to bring up her numbers and the last warning she received for productivity was in November 2006.

Tracie Sargent became her supervisor in November 2006 and the claimant did not receive any further warnings. The claimant had no problems with Ms. Sargent and thought she was a good boss. Approximately one week before she left, the claimant told Ms. Sargent that she was

retiring and that it was time for her to leave. The claimant's job was not in jeopardy at that time and she was meeting her productivity requirements.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

Iowa Code § 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(24) 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 § 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 § 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by retiring from employment. She contends she quit because of an intolerable work environment but admitted that she has had no problems since November 2006.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated December 4, 2007, reference 02, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are

withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css