

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL J BORCHERS**  
Claimant

**APPEAL NO. 07A-UI-04383-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AKA WIRELESS II INC – “Z” WIRELESS**  
Employer

**OC: 07/02/06 R: 01  
Claimant: Respondent (4)**

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

AKA Wireless II, Inc. filed an appeal from a representative's decision dated April 20, 2007, reference 03, which held that no disqualification would be imposed regarding Daniel Borchers' separation from employment. After due notice was issued, a hearing was held by telephone on May 16, 2007. Mr. Borchers participated personally and offered additional testimony from Justin Ryder. The employer participated by Nicole Winters, Manager.

**ISSUE:**

At issue in this matter is whether Mr. Borchers was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Borchers was employed by AKA Wireless II, Inc. from September of 2006 until April 9, 2007. He worked from 30 to 35 hours each week as a sales associate. On April 2, 2007, a coworker complained about a conversation Mr. Borchers was having in which gay people were being disparaged. Justin Ryder, a coworker, was aware of the complaint and notified Mr. Borchers that a coworker had complained to the manager. In response, Mr. Borchers called Nicole Winters, the manager. He was advised that he would be written up for making offensive remarks. At that point, Mr. Borchers said he was giving two week's notice. Ms. Winters saw him on the evening of April 5, at which time he confirmed that he was quitting. He cited his inability to get along with coworkers as the reason. The employer decided that Mr. Borchers would not be allowed to complete his notice period and, therefore, he became separated on April 9, 2007.

Mr. Borchers filed an additional claim for job insurance benefits effective April 8, 2007. He received \$610.00 in job insurance benefits for the period from April 15 through May 19, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Borchers gave two week's notice on April 2, 2007. Therefore, his employment would have ended on April 14, 2007. Where an individual is discharged prior to the effective date of resignation, he is allowed benefits from the last day worked until the effective date. It becomes a quit issue as of the effective date of resignation. See 871 IAC 24.25(38). For the above reasons, Mr. Borchers is allowed benefits from April 9 through April 14, 2007.

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Borchers told his manager he was leaving because he could not get along with coworkers. Apparently there were disputes as to who should get credit for sales. The employer has a system in place for determining which associate is credited with a sale. There was no evidence that Mr. Borchers was not paid the commissions he felt he earned. Mr. Borchers was unhappy with the fact that he felt another employee was being paid for time not worked. He had addressed those concerns with the president of the company. Whether the conduct would have continued is speculative at this point. The evidence failed to establish that Mr. Borchers had good cause attributable to the employer for quitting. Accordingly, benefits are denied.

Mr. Borchers has received benefits after the effective date of his resignation. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

**DECISION:**

The representative's decision dated April 20, 2007, reference 03, is hereby modified. Mr. Borchers was discharged prior to the effective date of resignation. Benefits are allowed from April 9 through April 14, 2007. Benefits are withheld effective April 15, 2007 and until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Borchers has been overpaid \$610.00 in job insurance benefits from April 15 through May 19, 2007.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs