

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SCOTT W MCPHERSON**  
Claimant

**APPEAL NO. 08A-UI-03533-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QWEST CORPORATION**  
Employer

**OC: 11/18/07 R: 01  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 1, 2008, reference 08, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on April 24, 2008. Claimant participated. Employer participated through Dan Dare and Matt Munoz and was represented by Frankie Patterson of Barnett Associates Inc.

**ISSUE:**

The issue is whether claimant quit the employment without good cause attributable to the employer or if he was discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time consumer sales and service associate from January 21, 2008 until February 21, 2008 when he was discharged. His last day worked was February 14 and failed to report to work from February 15 through February 22, 2008 so employer sent a letter on February 15 indicating if he did not return by February 22 he would be considered to have abandoned his job and employer would terminate the employment relationship. He told trainer Becky on or about February 7 that he was leaving his job for 30 days to attend a gambling rehabilitation training session but did not complete the proper Family Medical Leave Act (FMLA) paperwork. She referred him to recruiter Matt Munoz but he did not call Munoz until February 15 when he told Munoz, who has no authority to fire employees, that he could not continue working at Qwest because he took his girlfriend's credit card, used it at a casino, she pressed criminal charges and he was going to attend gambling rehabilitation. Munoz asked him if he could attend rehabilitation after training was complete in another two months and claimant told Munoz it was not possible.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

While claimant's decision to quit may have been based upon good personal reasons his failure to follow through on a proffered leave of absence was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

**DECISION:**

The April 1, 2008, reference 08, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs