

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSHUA M SIMPSON**  
Claimant

**APPEAL NO. 12A-UI-06370-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QWEST CORPORATION**  
Employer

**OC: 04/08/12**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed a late appeal from a representative's decision dated May 4, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on June 25, 2012. The claimant participated. The employer participated by Mr. John O'Fallon, Hearing Representative and witness, Derek Memmott, Senior Project Manager.

**ISSUE:**

At issue is whether the claimant's appeal was timely and whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: The claimant's appeal was filed beyond the ten-day statutory time limit because Mr. Simpson did not receive the initial fact-finders decision at his address of record. After waiting a period of time Mr. Simpson made an inquiry and at that time was informed that a decision had been made on his claim. Mr. Simpson immediately filed an appeal as soon as he received information that the decision had been adverse to him. Good cause for late filing has been shown.

Mr. Simpson began his employment with Qwest Corporation on March 14, 2011 and worked until April 6, 2012 when he submitted a two-week notice of intention to resign. Mr. Simpson was not allowed to complete the two-week notice period through May 21, 2012 and was not paid for the remainder of the notice period by his employer. Mr. Simpson held the position of customer service and sales representative. The claimant was employed on a full-time basis and was paid by the hour. His immediate supervisor was Matt Powel.

The claimant left his employment with Qwest Corporation based upon a diagnosis by his psychiatric nurse who believed that the working environment was detrimental to the claimant's mental status. The claimant was determined to be suffering from bipolar disease and the psychiatric nurse concluded, based upon statements made to her by the claimant, that the work environment was having a negative effect on the claimant's mental health and advised the claimant to quit.

Mr. Simpson concluded that his immediate supervisor was “making fun” of the claimant and his medical condition based upon statements made by the supervisor and by notes left by the supervisor for Mr. Simpson. Although Mr. Simpson felt that his supervisor’s conduct was unprofessional and was having a detrimental effect upon the claimant’s health/psychological condition, Mr. Simpson did not utilize the company’s open door policy or complain up the chain of command before resigning his position with the company.

The company utilizes an 800 number for employees to call with concerns. Employees are also aware under the company’s open door policy that they are able to complain up the chain of command. Mr. Memmott was present at the work location and held a position in a supervisory capacity over Mr. Simpson’s supervisor. The claimant did not inform Mr. Memmott of having any problems with his supervisor before leaving. Complaints to supervisory personnel up the chain of command or use of the 800 number is not limited to an employee’s normal working hours. Employees are free to contact supervisory personnel or use the 800 number during non-work hours as well as during working hours.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left employment without 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.

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

871 IAC 24.25(22) and (38) provide:

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:

(22) The claimant left because of a personality conflict with the supervisor.

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The administrative law judge finds the claimant has established good cause for filing his appeal beyond the ten-day statutory time limit. The claimant had not received a copy of the decision at his address of record.

An individual who voluntarily leaves their employment must first give notice to the employer of their reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991).

Inasmuch as the claimant did not give the employer an opportunity to resolve his complaints prior to leaving employment by using an 800 number or the company's open door policy the separation was without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The representative's decision dated May 4, 2012, reference 01, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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