

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DEVONTEZ D ROBERTS**  
Claimant

**APPEAL 24A-UI-04045-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAVERLY HEALTH CENTER**  
Employer

**OC: 03/17/24  
Claimant: Respondent (2)**

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Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Waverly Health Center, the employer/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) April 15, 2024 (reference 04) unemployment insurance (UI) decision. IWD found Mr. Roberts eligible for REGULAR (state) UI benefits because IWD concluded he quit on October 26, 2023 because working conditions were detrimental to him and the employer caused his quitting. On April 24, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to the employer and Mr. Roberts for a telephone hearing scheduled for May 8, 2024.

The administrative law judge held a telephone hearing on May 8, 2024. The employer participated in the hearing through Angie Tye, director of human resources. Mr. Roberts did not participate in the hearing. The administrative law judge took official notice of the administrative record.

The administrative law judge concludes Mr. Roberts is not eligible for UI benefits based on how his job ended with this employer because he quit without good cause attributable to the employer.

**ISSUES:**

Did Mr. Roberts voluntarily quit without good cause attributable to the employer?  
Did IWD overpay Mr. Roberts UI benefits?  
If so, should he repay the benefits?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Roberts began working for the employer in August 2021. He worked as a full-time emergency medical technician (EMT). His employment ended on October 26, 2023.

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<sup>1</sup> Appellant is the person or employer who appealed.

On September 28, 2023, Mr. Roberts gave the employer a written eight-week resignation notice. Mr. Roberts stated that he was resigning due to low pay. The employer accepted the notice. On October 22, Mr. Roberts gave the employer a second resignation notice resigning immediately. Mr. Roberts stated that he was resigning because he was being deployed. The same day, Mr. Roberts completed the employer's resignation form. Mr. Roberts listed deployment as the reason for his resignation on the form. The employer accepted the notice. Mr. Roberts worked his already scheduled shift on October 26 then his employment ended. The employer did not tell Mr. Roberts that he had to resign or threatened to end his job if he didn't resign.

On April 10, 2024, the employer received a letter from Mr. Roberts. The letter was addressed to IWD and the employer. The letter stated that IWD did not need to conduct a fact-finding interview because Mr. Roberts resigned from working for this employer to accept a job at McDonald's.

IWD paid Mr. Roberts REGULAR (state) UI benefits in the total gross amount of \$4,613.00 for 7 weeks between March 17, 2024 and May 4, 2024. IWD left the employer a voice message on the day scheduled for the fact-finding interview, but Ms. Tye was not available. The employer received notice of the interview after the date of the interview.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes 1) Mr. Roberts' separation from employment on October 26, 2023 was without good cause attributable to the employer, 2) IWD overpaid Mr. Roberts \$4,613.00 in UI benefits, but he is not required to repay these benefits back to IWD, and 4) the employer's account is relieved of charges.

#### Mr. Roberts Voluntarily Quit as of October 26, 2023 Without Good Cause Attributable To the Employer, So He Is Not Eligible for UI Benefits

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.

Iowa Admin. Code r. 871-24.25(37) 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 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the

employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.<sup>2</sup> A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.<sup>3</sup> "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular.<sup>4</sup>

In this case, Mr. Roberts did what was best for him, but his leaving was not for a good-cause reason attributable to the employer. Mr. Roberts is not eligible for UI benefits based on how his job ended with this employer.

IWD Overpay Mr. Roberts \$4,613.00 in REGULAR (state) UI Benefits.  
But He is Not Required to Repay These Benefits Back to IWD.  
And The Employer's Account Is Relieved of Charges

Iowa Code §96.3(7) provides, in relevant part:

*7. Recovery of overpayment of benefits.*

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers. If the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, the employer's account shall not be charged for the overpayment.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award

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<sup>2</sup> Iowa Code § 96.6(2).

<sup>3</sup> *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

<sup>4</sup> *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

Iowa Admin. Code r. 871-24.10 provides:

Employer and employer representative participation in fact-finding interviews.

(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

Since Mr. Roberts is not eligible for UI benefits based on how his job ended with this employer, he is not eligible for the UI benefits IWD already sent him. IWD overpaid Mr. Roberts REGULAR (state) UI benefits in the total gross amount of \$4,613.00 for 7 weeks between March 17, 2024 and May 4, 2024.

Since the employer did not participate in the fact-finding interview, Mr. Roberts is not required to repay these benefits back to IWD. Since the employer's non-participation in the interview was not the employer's fault, the employer's account is relieved of charges.

**DECISION:**

The April 15, 2024, (reference 04) UI decision is REVERSED. Mr. Roberts voluntarily left his employment with this employer as of October 26, 2023 without good cause attributable to the employer. Mr. Roberts is not eligible for UI benefits until he has worked in and been paid wages for insured work equal to ten times his weekly UI benefit amount, as long as no other decision denies him UI benefits.

IWD overpaid Mr. Roberts REGULAR (state) UI benefits in the gross amount of \$4,613.00 for seven weeks between March 17, 2024 and May 4, 2024. Since the employer did not participate in the fact-finding interview, Mr. Roberts is not required to repay these UI benefits back to IWD.

Since employer's non-participation in the fact-finding interview was not the employer's fault, the employer's account is relieved of charges.



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Daniel Zeno  
Administrative Law Judge

May 9, 2024  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.