

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

MELISSA A WALLBURG
Claimant

APPEAL 24A-UI-05170-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCED MONITORING CAREGIVING
Employer

**OC: 05/05/24
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 24, 2024, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on June 17, 2024. Claimant Melissa Wallburg participated and testified. Employer Advanced Monitoring Caregiving, Inc. participated through human resources employee Kathleen Jeffery. Claimant's Exhibits A - H were received. Employer's Exhibits 1 and 2 were received.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a technical support services representative from November 6, 2023, until April 15, 2024, when she quit.

Claimant suffers from depression, anxiety, and PTSD. Claimant notified employer in December 2024 of her depression and anxiety and requested accommodations and provided supporting documentation. She requested to have five minute breaks from work every hour to stand up, stretch and walk. Employer allowed the accommodation, and while human resources told claimant's supervisor the request would be granted, the message was not passed onto claimant. Claimant took breaks but worried she would get in trouble for doing so.

Claimant's disabilities were worsened by employees who would send messages telling claimant she was doing her job badly and what she should do to improve. Claimant complained to her supervisor about these messages, and on April 5, 2024, she met with her supervisor and human resources. This was the first time human resources became aware of claimant's PTSD diagnosis. After this meeting, all staff were informed that if anyone had issues or concerns with other employees they should bring them to management, not to the employee themselves. The messages to claimant stopped after this email was sent.

Claimant's PTSD symptoms were triggered after a phone call with a client's wife and when her supervisor became upset with her about the call. On April 11, 2024, claimant's supervisor told her that she needed to reflect on whether the position was a good one for her as she would have to field many calls from veterans with PTSD. After the meeting, claimant wrote to HR that her PTSD was triggered and she did not appreciate the accusations and poor treatment when her disability was documented and on file. She requested a meeting with HR to further discuss this and her supervisor's treatment of her.

Claimant missed the remainder of work on April 11 and was absent on April 12, 2024. She provided a doctor's note supporting the absences due to her PTSD symptoms.

HR initially planned to speak with claimant on April 12, 2024, but because she was out of the office, HR scheduled a meeting with claimant Monday, April 15, 2024. HR and management had been discussing providing additional training for employees and management regarding disabilities in the hopes that claimant would feel more comfortable at work. HR planned to tell claimant about the training during the meeting. However, on the morning of April 15, 2024, prior to the scheduled meeting, claimant submitted her written resignation to employer, effective immediately. Claimant resigned at the urging of her doctor who noted the position worsened her symptoms of anxiety, depression and PTSD.

Claimant's job was not in jeopardy and continuing work was available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

Iowa Code § 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

e attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

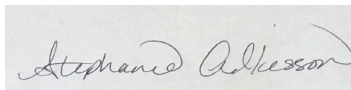
(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused 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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v.*

Claimant's written resignation is both evidence of her intention to sever the employment relationship and an overt act of carrying out her intention. Here, the employer took efforts to work with claimant and accommodate her disabilities. When she brought her concerns to employer, they ensured her coworkers stopped emailing her critiques of her employment, and were in the process of providing training to all staff. Employer planned further training for staff to ensure a safe working environment; however, claimant's position required her to encounter a variety of calls, and employer did not have control over what she might face during those calls. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The May 24, 2024, (reference 01) unemployment insurance decision is AFFIRMED. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times their weekly benefit amount after the April 15, 2024 separation date, and provided they are otherwise eligible.



Stephanie Adkisson
Administrative Law Judge

June 24, 2024
Decision Dated and Mailed

APPEAL RIGHTS. If you disagree with the 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:

**Iowa 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:

**Iowa 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.