

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

**BRENDA THOMAS**

Claimant

**BWC INDUSTRIAL SERVICES LC**

Employer

**APPEAL 23A-UI-10439-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/15/23**

**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

Brenda Thomas, the claimant/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) October 31, 2023 (reference 01) unemployment insurance (UI) decision. IWD denied Ms. Thomas REGULAR (state) UI benefits because IWD concluded she voluntarily quit on October 16, 2023 for personal reasons and the employer did not cause her quitting. On November 7, 2023 the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Ms. Thomas and the employer for a telephone hearing scheduled for November 27, 2023.

The undersigned administrative law judge held a telephone hearing on November 27, 2023. Ms. Thomas participated in the hearing personally. The employer participated in the hearing through Kurt Klostermann, chief operating officer.

**ISSUES:**

Did Ms. Thomas voluntarily quit without good cause attributable to the employer?  
Is Ms. Thomas able to and available for work?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Thomas began working for the employer in January 2022. She worked as a full-time office manager. Her employment ended on October 16, 2023.

On Thursday, October 5, 2023, police raided Ms. Thomas' house and arrested a person who was at her house. The police did not arrest or charge Ms. Thomas with any crime. Ms. Thomas returned to work on Tuesday, October 10. A few days before October 10, the employer noticed that Ms. Thomas had deposited money from the employer into her personal checking account.

On October 10, the employer's chief executive officer (CEO) called Ms. Thomas into the office and asked her about work-related issues. The CEO then asked Ms. Thomas about the

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<sup>1</sup> Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

October 5 raid. Ms. Thomas explained that it was a non-work-related issue, and she did not know that the police were going to raid her house and arrest the person they arrested. The CEO asked Ms. Thomas how she could not know that the person had a criminal issue. Ms. Thomas was offended by the CEO's questions. At some point, Mr. Klostermann, the COO, joined the meeting.

At some point in the meeting, the employer asked Ms. Thomas about the employer's money being deposited into her personal checking account. Ms. Thomas explained that this was reimbursement for classes she had taken. The employer had no record of Ms. Thomas taking any classes or the employer agreeing to pay for said classes. The employer asked Ms. Thomas to provide documentation for the classes/transactions to her personal checking account. Ms. Thomas agreed to do so. Mr. Klostermann told Ms. Thomas that depending on what the documentation showed, the employer may discipline her up to, and including, terminating her employment.

By the end of the meeting, the employer offered Ms. Thomas paid leave for the rest of the week so she could care for herself and her family. After the meeting, Ms. Thomas told Mr. Klostermann that she felt the CEO's tone in the meeting was accusatory, and the CEO was more concerned about how the raid impacted the employer and not how Ms. Thomas was doing. Ms. Thomas took paid leave Wednesday – Friday, October 11-13.

On Monday, October 16, Ms. Thomas sent the CEO and COO an email resigning for her health and her family's health and safety. Ms. Thomas also resigned because she was triggered by a company-wide email the CEO sent in about March of 2022. That email was about an employee of a sister-company, who is related to the CEO and who was convicted of crime. Ms. Thomas felt that the CEO supported that employee and blamed the victim. Ms. Thomas complained about the email at the time the CEO sent it. Ms. Thomas also resigned because in about July 2022, the owner told Ms. Thomas that her husband could not drive company vehicle, and at some point, Ms. Thomas saw racial slurs in text messages between the owner, the CEO and the owner's family who worked for the employer. Ms. Thomas concluded that the employer was not treating her fairly.

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

For the reasons that follow, the undersigned concludes Ms. Thomas' separation from 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 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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

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> "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer.<sup>5</sup> Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the law.<sup>6</sup>

Generally, an employee is required to give notice of an intent to quit to give the employer an opportunity to fix working conditions.<sup>7</sup> In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. However, the requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. The Iowa Supreme Court concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions.<sup>8</sup>

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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).

<sup>5</sup> *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer.").

<sup>6</sup> *Raffety*, 76 N.W.2d at 788.

<sup>7</sup> *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996).

<sup>8</sup> *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

So, Ms. Thomas was not required to give the employer a notice about intolerable or detrimental working conditions before she quit. But she must prove that her working conditions were intolerable, detrimental, or unsafe.

In this case, Ms. Thomas ended her employment for her and her family's health and safety after the October 5 raid on her house. The CEO's March 2022 email is too far removed to be the basis for Ms. Thomas' October 2023 quit. Ms. Thomas resigned, and the employer accepted her resignation. Ms. Thomas has not established that a reasonable person would find her working conditions intolerable and detrimental. Ms. Thomas did what was best for her, but her leaving was not for a good-cause reason attributable to the employer according to Iowa law. Ms. Thomas is not eligible for UI benefits.

**DECISION:**

The October 31, 2023 (reference 01) UI decision is AFFIRMED. Ms. Thomas voluntarily left her employment without good cause attributable to the employer. Ms. Thomas is not eligible for UI benefits until she has worked in and been paid wages for insured work equal to ten times her weekly UI benefit amount, as long as no other decision denies her UI benefits.



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Daniel Zeno  
Administrative Law Judge

November 30, 2023  
Decision Dated and Mailed

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**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:

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