

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

VICTORIA S SERO
Claimant

MC SOIFER'S INC
Employer

APPEAL 24A-UI-04291-PT-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/31/24
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Victoria Sero, filed an appeal from a decision of a representative dated April 22, 2024, (reference 01) that held the claimant ineligible for unemployment insurance benefits after a separation from employment. After due notice, a telephone hearing was held on May 16, 2024. The claimant participated personally. The employer participated through Area Supervisor Shawn Sorenson and General Manager Megan O'Brien. The claimant's proposed exhibits were not admitted into evidence because they were not provided to the employer prior to the start of the hearing. The administrative law judge took official notice of the administrative record.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant was employed as a part-time opener/crew trainer with Mc Soifer's Inc. from April 1, 2021, until her employment ended on April 3, 2024. The employer operates a McDonald's franchise and, as an opener/crew trainer, the claimant was responsible for opening the restaurant, prepping and cooking food, and training other employees on their job assignments. The claimant typically worked Monday through Thursday from 4:00 a.m. to 10:00 a.m.

In the winter of 2024, the employer hired a new employee who was sometimes assigned to help open the restaurant. Shortly after the new employee was hired, the claimant became concerned with the new employee's work ethic and communication style. Specifically, the claimant felt the new employee was rude, often did not do jobs she had been told to do, and sometimes took over the claimant's job assignments without asking. The claimant also occasionally heard the employee talking about other employees behind their backs.

In late February 2024, the claimant reported to the Area Manager that she felt the other employees were not doing their jobs and that she was often left covering extra job responsibilities. The Area Manager had not witnessed this alleged conduct herself, but she told

the general manager about the claimant's allegation and instructed the general manager to be on the lookout for employees not performing their job duties.

In March 2024, the general manager went on a medical leave of absence, so the assistant manager took over managing the restaurant's day-to-day operations. In mid-March 2024, the claimant texted the general manager stating that she felt like she was being forced to do all of the cleaning because several employees left their stations dirty and were not doing their jobs. The claimant complained that the assistant manager had not disciplined the employees for their conduct. The general manager told the claimant that she would talk to the assistant manager about the issues, but the assistant manager did not address the complaints with the employees.

On April 3, 2024, the claimant texted the general manager stating that she was resigning her position effective immediately because her coworker was taking over her job duties, had placed a dirty tray on a table she had just cleaned, and because the assistant manager had not reprimanded the employee for her behavior. The employer accepted the claimant's resignation. The employer had continuing work available to the claimant, but the claimant had no further contact with the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit her employment without good cause attributable to the employer. Benefits are denied.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. The burden of proof rests with the employer to show that the claimant voluntarily left the employment. *Irving v. Empl. App. Bd.*, 883 N.W.2d 179 (Iowa 2016). A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). It requires an intention to terminate the employment relationship accompanied by an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

In this case, the claimant's written resignation to the employer is both evidence of her intention to sever the employment relationship and an overt act carrying out her intention. The record shows that the claimant, not the employer, ended the employment relationship. As such, I find the claimant quit her employment.

The 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). If the claimant fails to meet their burden, the separation from employment is disqualifying.

Iowa Admin. Code r. 871-24.25(6), (21), (22) and (37) 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:

(6) The claimant left as a result of an inability to work with other employees.

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

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

(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.

In order for the claimant to demonstrate that her leaving was with good cause attributable to the employer, she must demonstrate that her working conditions were intolerable, detrimental, or unlawful, or that she was subjected to a substantial change in the terms of her contract of hire. The claimant has not demonstrated as much. While the claimant may have had legitimate reasons to be upset with her coworker, her supervisor, and the overall work environment, the record does not show her supervisor's conduct or her coworker's behavior created an unsafe, unlawful, intolerable, or detrimental working environment. While the claimant's decision to quit her employment may have been for good personal reasons, it was not for a good-cause reason attributable to the employer. As such, benefits must be denied.

DECISION:

The April 22, 2024 (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her employment on April 3, 2024, without good cause attributable to the employer. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.



Patrick B. Thomas
Administrative Law Judge

May 23, 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 adquiriera 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.