

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

JILL E JORDAN
Claimant

HAYES BUSINESS GROUP LLC
Employer

APPEAL 23A-UI-05951-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/07/23
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jill E. Jordan, the claimant/appellant,¹ filed an appeal from the Iowa Workforce Development (IWD) June 1, 2023 (reference 01) unemployment insurance (UI) decision. The decision denied Ms. Jordan REGULAR (state) UI benefits because IWD concluded she voluntarily quit on May 9, 2023 for personal reasons and the employer did not cause her quitting. On June 14, 2023, the Iowa Department of Inspections, Appeals, and Licensing, UI Appeals Bureau mailed a notice of hearing to Ms. Jordan and the employer. The undersigned administrative law judge held a telephone hearing on June 29, 2023. Ms. Jordan participated personally. The employer participated through Misty Raxter, accountant.

ISSUE:

Did Ms. Jordan voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Jordan began working for the employer in 2021. She worked as a full-time quality control person. Her employment ended on May 9, 2023.

Ms. Jordan and another employee (Employee A) used to be friends. In July or August 2022, Employee A stole from Ms. Jordan outside of work. Ms. Jordan reported the incident to the employer. The employer took no action.

At some point, the employer spray painted a line on the floor separating the beginning part of the assembly line from the ending part. Ms. Jordan worked at the end of the line. The employer did so to make the line run more efficiently. Employee A would come to the end of the line. Ms. Jordan did not like this.

Sometime in November 2022, Employee A sent Ms. Jordan a text during the workday on a day Ms. Jordan did not attend work. Ms. Jordan did not have the text with her during the hearing, but she remembered it saying something to the effect of Ms. Jordan should mind her business,

¹ Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

stay out of Employee A's business, calling Ms. Jordan a bitch, and telling Ms. Jordan that Employee A would shut her up. Employee A also said in their text to Ms. Jordan that Employee A would punch another employee in the face. Ms. Jordan forwarded the text to a co-worker. The co-worker told Ms. Jordan that the co-worker forwarded the text to the plant manager. The next day, the office manager handed out paperwork about hostile work environment from the employer's handbook to employees. The office manager told Ms. Jordan that the employer was handing out the document to address threats that were made outside of work that carried over into work.

Employee A would put their headphones on, make direct eye contact with Ms. Jordan and say things like "You're a fucking bitch, bitch." Ms. Jordan believed that Employee A was talking to her and not quoting a song. Ms. Jordan reported this to the office manager many times. The office manager told Ms. Jordan to ignore Employee A.

In December 2022, Employee A was incarcerated for theft from the employer. Sometime in April 2023, Ms. Jordan's co-workers told Ms. Jordan that Employee A was coming back to work. Ms. Jordan went to the plant manager and stated that she would quit if the employer brought Employee A back. The plant manager told Ms. Jordan that the employer was not bring Employee A back so there was nothing for her to worry about.

Ms. Jordan attended work on May 9. Co-workers told Ms. Jordan that Employee A was coming back to work that day. Ms. Jordan packed her things to leave. The floor manager asked Ms. Jordan what was going on. Ms. Jordan stated that she could not work with Employee A, and she left.

Ms. Jordan talked with the office manager frequently about Employee A, including while at the toilet. Ms. Jordan also talked with the floor manager and the plant manager many times about Employee A. The employer has no record of any complaints from Ms. Jordan about Employee A.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Ms. Jordan's separation from employment with this employer was with 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, in relevant part:

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.

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.² A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.³ “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.⁴ “Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer.⁵ Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the law.⁶

Generally, an employee is required to give notice of an intent to quit to give the employer an opportunity to fix working conditions.⁷ 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.⁸

Therefore, Ms. Jordan was not required to give the employer a notice about intolerable or detrimental working conditions before she quit. But Ms. Jordan must prove that her working conditions were intolerable, detrimental, or unsafe. In this case, Ms. Jordan has done so.

It is reasonable to the average person that Ms. Jordan should not have to work in an environment where another employer threatens her by saying they would shut her up and continuously directs profanity at her. Ms. Jordan reported the issue to the employer numerous times to give the employer an opportunity to address her concerns. The employer did not take action to address or resolve the problem. Ms. Jordan’s job ended when she quit because of her working conditions and Ms. Jordan has established that her working conditions were intolerable and detrimental. The employer’s lack of action means the cause for Ms. Jordan’s quit is attributable to the employer. UI benefits are allowed.

² Iowa Code § 96.6(2).

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

⁴ *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

⁵ *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.”).

⁶ *Raffety*, 76 N.W.2d at 788.

⁷ *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).

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

DECISION:

The June 1, 2023 (reference 01) UI decision is REVERSED. Ms. Jordan left her employment with good cause attributable to the employer. UI benefits are allowed, as long as no other decision denies Ms. Jordan benefits.



Daniel Zeno
Administrative Law Judge

July 5, 2023
Decision Dated and Mailed

rvs

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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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.