

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

MICHELLE OUREN
Claimant

ADVANTAGE CREDIT UNION
Employer

APPEAL 24A-UI-08748-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/08/24
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Michelle Ouren, filed an appeal from the September 30, 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 October 23, 2024. Claimant, Michelle Ouren, participated and testified. Employer, Advantage Credit Union, participated through hearing representative, Sheryl Goodbar and witness, Holly Jaggers. The Employer's Exhibits 1 and 2 were offered and admitted into the record. The Claimant's Exhibit A was offered and admitted into the record. Official notice was taken of the administrative record including the fact-finding documents.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant, Ms. Ouren, began working for this employer on October 26, 2020 as a full-time Chief Operations Officer. Her immediate supervisor was CEO, Leslie Brickman. The last day Ms. Ouren physically worked for this employer was August 30, 2024.

On August 28, 2024 Ms. Ouren submitted her letter of resignation to her employer. Her intended last day was September 11, 2024. The employer accepted Ms. Ouren's resignation effective August 30, 2024. She received pay through her intended last day of employment, September 11, 2024.

Ms. Ouren submitted her resignation because she had continuing issues with her CEO and direct supervisor, Leslie Brickman. Because of these issues, the claimant reached out to the Board of Directors, which was Ms. Brickman's immediate supervisor. The claimant accidentally included Ms. Brickman in a message to the Board of Directors which alerted Ms. Brickman to Ms. Ouren's communication with the Board of Directors. A meeting was set up with Ms. Ouren and the Board of Directors.

The meeting took place and the Board listened to Ms. Ouren's concerns and asked her to meet with Ms. Brickman to discuss the issues. Ms. Brickman and Ms. Ouren held a meeting with a third manager present. After that meeting, a consultant was brought on to assist. The consultant met with both women, and, In that meeting, it was determined that Ms. Ouren had too much on her plate and two new positions were to be created beneath Ms. Ouren to alleviate her workload. Once the consultant left, Ms. Brickman did not follow the plan in creating two assistant positions below Ms. Ouren. Instead, Ms. Brickman created one new position above Ms. Ouren, or between Ms. Ouren and Ms. Brickman. An employee who was under Ms. Ouren was then promoted to this new position.

After that, Ms. Ouren became increasingly concerned about the plan going forward. Before Ms. Ouren left on a scheduled vacation, she met with Ms. Brickman and expressed her continued concern with her workload and explained that she still felt the current workload was more than her position could handle. The claimant suggested moving the claimant into the newly created position and backfilling her old position. When the claimant returned from vacation, Ms. Brickman informed her that she wouldn't be promoting her to the new position.

The claimant decided to keep her head down and get her work done even though she felt the workload was double what it should have been. The claimant requested overtime for an employee who had been handling a large workload. Her request was denied.

From that point forward, the claimant described the work environment as walking on eggshells, little direct communication and generally a negative place to be. The claimant discussed her issues with the internal human resources position. The claimant felt that after speaking with human resources, instead of getting better, the situation felt like it was worse. For example, the claimant and one other employee were scheduled to go on a trip to receive additional training and both were told the trip was being canceled because all training was going to take place at the office.

The claimant submitted her letter of resignation on August 28, 2024 citing the extreme stress of the job. The claimant testified that the stress was affecting her health, specifically causing stomach issues on a daily basis and her inability to sleep.

The claimant's job was not in jeopardy. When she resigned, continuing work was available to her with this 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 and 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 clearly resigned by submitting her written resignation and carried out that intention by ceasing reporting to work. 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(22) and (21) 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:

- (22) The claimant left because of a personality conflict with the supervisor.
- (21) The claimant left because of dissatisfaction with the work environment.

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. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted: "Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits."

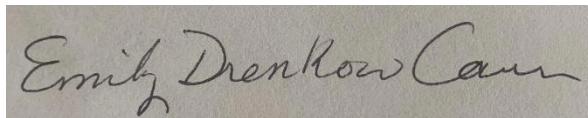
It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory, and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the claimant's general description of her working conditions credible. The claimant credibly testified that she had a difficult time communicating with her supervisor, that she felt like she had to "walk on eggshells" toward the end of her employment. It is conceivable that the claimant's supervisor's actions and management style had a serious impact on the claimant.

The issue here, however, is whether the claimant's decision to end her employment was with good-cause attributable to the employer. In order for the claimant to demonstrate that she quit with good-cause attributable to the employer, she must demonstrate that she quit because the work environment was intolerable, detrimental, unlawful, or unsafe. The claimant has not demonstrated as much. While the claimant may have disliked her work environment because she felt like her supervisor's management style was ineffective, the claimant was not experiencing any abusive, discriminatory, berating, or cruel treatment that required her to quit. Further, while the claimant provided evidence that she was unable to sleep and suffered from stomach issues due to her work environment, she has not presented any medical evidence showing an adequate health reason to justify her resignation. She did not end her employment upon the advice of a licensed and practicing physician. Finally, while she may have legitimate reasons to be upset with her supervisor, the evidence does not establish unsafe, unlawful, intolerable or detrimental working conditions that required her to quit. Taken together, while the claimant's decision to quit her employment may have been for good personal reasons, it was not for good-cause attributable to the employer. As such, benefits must be denied.

DECISION:

The September 30, 2024, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

A handwritten signature in cursive script, reading "Emily Drenkow Carr", written in dark ink on a light-colored, textured background.

Emily Drenkow Carr
Administrative Law Judge

October 28, 2024
Decision Dated and Mailed

ed/scn

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.