

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

**NAIYA D GALLOWAY**  
Claimant

**D.S. INDUSTRIES**  
Employer

**APPEAL 24A-UI-03338-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/18/24  
Claimant: Respondent (4)**

Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

D.S. Industries, the employer/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) March 18, 2024 (reference 01) unemployment insurance (UI) decision. IWD found Ms. Galloway eligible for REGULAR (state) UI benefits because IWD concluded the employer dismissed her from employment on February 19, 2024 for a reason that did not disqualify her from receiving UI benefits. On March 28, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to the employer and Ms. Galloway for a telephone hearing scheduled for April 18, 2024.

The undersigned administrative law judge held a telephone hearing on April 18, 2024. The employer participated in the hearing through Denis Spurgetis, owner. Ms. Galloway participated in the hearing personally. The administrative law judge took official notice of the administrative record and admitted Employer's Exhibits 1-2 as evidence.

The administrative law judge concludes Ms. Galloway is eligible for UI benefits from February 18, 2024 through March 2, 2024, since the employer ended her job before her resignation date, but she is not eligible for UI benefits as of March 3, 2024 because she quit without good cause attributable to the employer.

**ISSUES:**

Did the employer discharge Ms. Galloway from employment for disqualifying job-related misconduct?

Did IWD overpay Ms. Galloway UI benefits?

If so, should she repay the benefits?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Galloway began working for the employer, a laundromat, in mid-2023. She worked as a part-time worker. Her employment ended on February 19, 2024.

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<sup>1</sup> Appellant is the person or employer who appealed.

On February 18, Ms. Galloway gave the employer a two-week resignation notice to end her employment on March 2. Ms. Galloway had been complaining to the employer about workers on the previous shift not doing their job, which made her have to do the work. On February 18, Ms. Galloway was fed up with this, so she gave the employer her notice. Mr. Spurgetis accepted the notice.

The next day, the manager texted Ms. Galloway just after 2:00 p.m. and told her to turn in her keys and that her job was over. The manager did not give Ms. Galloway a reason for ending her job. Ms. Galloway had no prior discipline record.

IWD paid Ms. Galloway REGULAR (state) UI benefits in the total gross amount of \$322.00 for two weeks between February 25, 2024 and March 9, 2024. The employer participated in the fact-finding interview through Mr. Spurgetis.

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

For the reasons that follow, the administrative law judge concludes 1) Ms. Galloway's separation from employment on March 2, 2024 was without good cause attributable to the employer, so she is not eligible for UI benefits as of March 3, 2024, 2) since the employer ended her employment before March 2, she is eligible for UI benefits from February 18, 2024 through March 2, 2024, 3) IWD overpaid Ms. Galloway \$161.00 in UI benefits, and 4) Ms. Galloway is required to repay these benefits back to IWD.

#### Ms. Galloway's March 2, 2024 Quit Was Not For 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) and (38) 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.

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

Iowa Admin. Code r. 871-24.26(12) 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:

(12) When an employee gives notice of intent to resign at a future date, it is a quit issue on that future date. Should the employer terminate the employee immediately, such employee shall be eligible for benefits for the period between the actual separation and the future quit date given by the claimant.

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>

In this case, Ms. Galloway quit because she was fed up with doing work from the previous shift. Ms. Galloway gave the employer a resignation notice to leave on March 2, 2024, and the employer accepted the notice. Ms. Galloway did what was best for her, but her leaving was not for a good-cause reason attributable to the employer. Ms. Galloway is not eligible for UI benefits as of March 3, 2024.

But, since the employer terminated Ms. Galloway's employment on February 19, after she had already given the employer her notice, Ms. Galloway is eligible for UI benefits from February 18, 2024, the effective date of her UI claim, through March 2, 2023.

IWD Overpaid Ms. Galloway \$161.00 in UI Benefits,  
And She Is Required to Repay These Benefits Back to IWD

Iowa Code §96.3(7) provides, in relevant part:

*7. Recovery of overpayment of benefits.*

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal

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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).

to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers. If the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, the employer's account shall not be charged for the overpayment.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

Iowa Admin. Code r. 871-24.10 provides, in relevant part:

Employer and employer representative participation in fact-finding interviews.

(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

Since Ms. Galloway is not eligible for UI benefits as of March 3, 2024 based on how her job ended with this employer, she is not eligible for the UI benefits IWD already sent her for the week of March 3-9, 2024. IWD overpaid Ms. Galloway REGULAR (state) UI benefits in the total gross amount of \$161.00 for the week of March 3-9, 2024. Since the employer participated in the fact-finding interview, Ms. Galloway is required to repay these benefits back to IWD.

**DECISION:**

The March 18, 2024 (reference 01) UI decision is MODIFIED IN FAVOR OF THE APPELLANT, THE EMPLOYER. Ms. Galloway voluntarily left her employment without good cause attributable to the employer effective March 2, 2024. But the employer terminated her employment on February 19, 2024. So, Ms. Galloway is eligible for UI benefits from February 18, 2024, the effective date of her UI claim, through March 2, 2024. But, Ms. Galloway is not eligible for UI benefits as of March 3, 2024 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.

IWD overpaid Ms. Galloway REGULAR (state) UI benefits in the gross amount of \$161.00 for the week of March 3-9, 2024. Since the employer participated in the fact-finding interview, Ms. Galloway is required to repay these UI benefits back to IWD.



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Daniel Zeno  
Administrative Law Judge

April 19, 2024  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with this 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.