

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

BRIAN T HAMMER
Claimant

TRELLEBORG WHEEL SYSTEM AMERICAS
Employer

APPEAL 24A-UI-03082-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/25/24
Claimant: Appellant (1)**

Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On March 19, 2024, the claimant/appellant filed an appeal from the March 15, 2024, (reference 01) unemployment insurance decision that denied benefits based on claimant voluntarily quitting on February 27, 2024 by failing to report to work for three days in a row and not notifying the employer of the reasons. The parties were properly notified about the hearing. A telephone hearing was held on April 10, 2024. Claimant participated. Employer participated through Plant Human Resources Manager, Nichole Ptacek. Administrative notice was taken of claimant's unemployment insurance benefits records. Claimant's exhibit A was admitted into the record.

ISSUES:

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on December 5, 2022. Claimant last worked as a full-time Machine Setter.

The employer has a three day no call, no show policy. If an employee does not show up or call in for three consecutive days they are considered to have quit. The employer's attendance policy requires employees to call in an hour prior to their shift each day they are absent and notify their supervisor of their absence unless they are on an approved leave. The claimant was aware of these policies.

On February 19, 2024, claimant notified his supervisor that he was ill an hour in advance of his shift. On February 20, 2024, claimant notified his supervisor a few minutes before his shift that he was still ill and would not be at work. On February 21, 2024, the claimant notified his supervisor at least an hour prior to his shift that he would be absent due to having some

personal issues. At this time the claimant asked his supervisor for the phone number to call for FMLA leave. The supervisor did not give the claimant the number. On February 22, 2024, the claimant called his supervisor in advance of his shift and informed him he would be absent due to ongoing personal issues dealing with his divorce. The claimant informed his supervisor that he would be absent on Friday and again requested the number for FMLA leave. The supervisor did not give the claimant the FMLA number.

The claimant did not call in or show up for work on Friday, February 23, 2024, Monday, February 26, 2024, or Tuesday, February 27, 2024. On February 27, 2024 at 10:34 p.m. the claimant received a text message from the lead informing the claimant that he had the claimant's personal items available for pick up. On February, 28, 2024, the claimant arrived at work and turned in his badge and retrieved his personal items.

Prior to this time the claimant requested and was placed on a leave of absence with the employer from February 1, 2024, through February 7, 2024. Claimant was aware that he needed to contact human resources to request a leave of absence from the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the 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 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:

4) The claimant was absent for three days without giving notice to employer in violation of company rule

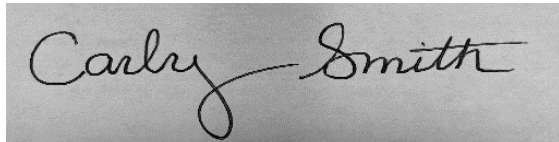
Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products 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).

In this case on Thursday, February 22, 2024, the claimant notified his supervisor he would be absent from work on Friday, February 23, 2024. The employer's policy requires the claimant to call in each day they are going to be absent unless they are on an approved leave. Since claimant was not on an approved leave of absence his absence on February 23, 2024, is considered a no call no show in violation of the employer's policy.

The claimant failed to call in or show up for work on February 26th and 27th. Claimant did not take any active steps to preserve his employment by speaking with human resources to go on another leave of absence or by simply notifying his supervisor prior to his shift that he was going to be absent. As a result, claimant did voluntarily quit when he did not show up or call in for three consecutive days in violation of the company's policy. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The March 15, 2024 (reference 01) unemployment insurance decision is AFFIRMED. Claimant voluntarily quit employment on February 27, 2024, without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times their weekly benefit amount since the separation and provided they are otherwise eligible.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive, flowing style. The "C" is large and loops around the "arly". The "Smith" is written in a similar cursive style. The signature is centered on a light gray background.

Carly Smith
Administrative Law Judge

April 11, 2024
Decision Dated and Mailed

cs/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:

**Employment Appeal Board
6200 Park Ave 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:

**Employment Appeal Board
6200 Park Ave 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.