

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

Cynthia Phipps
Claimant

DIA APPEAL NO. 23IWDUI0008

IWD APPEAL NO. 22A-UI-14184

Scheetz Holdings, Inc.
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 5/29/2022
Claimant: Appellant (4R)**

Iowa Code § 96.5(2) – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant, Cynthia Phipps, filed an appeal from a June 17, 2022 (Ref. 01) unemployment insurance decision that denied benefits based upon her separation from employment. The parties were properly notified of the hearing. A telephone hearing was held on August 26, 2022. Claimant appeared and testified. Employer, Scheetz Holdings, Inc., appeared and had a witness testify. The entire administrative file was admitted into the record, and the matter is now fully submitted.

ISSUES:

Whether the separation was 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 as set forth below:

Claimant commenced working for Employer on September 1, 2021, as a sales associate in a convenience store. This was her second job; she was also working fulltime for a manufacturing plant. On May 24, 2022, Claimant resigned from Employer with a text message. Employer Ex., at p. 1. This was due to an ongoing medical condition that necessitated her only working one fulltime job. Claimant Ex., at p. 1. Employer accepted the resignation, and on May 25, 2022, Claimant was temporary laid off from her manufacturing job due to a slow down for four to five weeks. Thereafter, starting on or about May 29, 2022, she sought benefits for the time she was unemployed.

In a June 17, 2022, decision, the Department denied benefits, concluding Claimant failed to prove good cause attributable to her Employer for the separation. June 17, 2022, Decision, at p. 1. Claimant appealed, and on appeal, Claimant states she did not quit her fulltime job; she only left her second job due to health reasons.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.5(1) disqualifies a claimant from benefits if the claimant quit the job without good cause attributable to the employer. The Iowa Supreme Court has held that good cause requires "real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." Wiese v. Iowa Dep't of Job Serv., 389 N.W.2d 676, 680 (Iowa 1986). Moreover, the Court has advised that "common sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." Id.

According to the Iowa Supreme Court, good cause attributable to the employer does not require fault, negligence, wrongdoing or bad faith by the employer. Dehmel v. Emp't Appeal Bd., 433 N.W.2d 700, 702 (Iowa 1988). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. See, e.g., Raffety v. Iowa Emp't Sec. Comm'n, 76 N.W.2d 787, 788 (Iowa 1956).

A burden-shifting framework is used to evaluate quit cases. Because an employer may not know why a claimant quit, the claimant has the initial burden to produce evidence suggesting the claimant is not disqualified from benefits under Iowa Code section 96.5(1) a through j and section 96.10. If the claimant produces such evidence, the employer has the burden to prove the claimant is disqualified from benefits under section 96.5(1).

Iowa Administrative Code rule 871-24.25 creates a presumption a claimant quit without good cause attributable to the employer in certain circumstances. Iowa Administrative Code rule 871-24.26 identifies reasons for quitting that are considered for good cause attributable to the employer. Under rule 871-24.25(21), it is presumed a claimant voluntarily left employment without good cause attributable to the employer if the claimant left due to dissatisfaction with the work environment. By contrast, good cause attributable to employer for a quit is presumed when there was a separation "because of illness, injury, or pregnancy," with the following conditions:


- a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.
- b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

Iowa Admin. Code r. 871-24.26(6).

In this case, no dispute exists Claimant quit her position with Employer on May 24, 2022. Further, the record indicates there was no good cause attributable to this Employer because, while the reason was illness unrelated to work conditions, there was no recovery and a denial of a request to resume work. That said, the governing law also states of part-time employment: "An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment." Id. r. 24.27. Accordingly, IWD's decision is MODIFIED in favor of Claimant, who left this Employer without good cause attributable to this Employer, but she may still be qualified due to her regular employer subsequently laying her off for several weeks.

DECISION:

The June 17, 2022 (reference 01) unemployment insurance decision is MODIFIED in favor of Claimant. Claimant voluntarily left the employment without good cause attributable to the Employer and has not requalified for benefits but may be otherwise monetarily eligible. Benefits are allowed, provided the Claimant is otherwise eligible. The account of this Employer shall not be charged.



Jonathan M. Gallagher
Administrative Law Judge

August 29, 2022
Decision Dated and Mailed

JMG/

CC: Cynthia Phipps, Claimant (by First Class Mail)
Scheetz Holdings, Inc., Employer (by First Class Mail)
Joni Benson (By Email)

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.

Case Title: CYNTHIA PHIPPS V. SCHEETZ HOLDINGS, INC.
Case Number: 23IWDUI0008
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Jonathan Gallagher", with a long, sweeping horizontal stroke at the end.

Jonathan Gallagher, Administrative Law Judge