

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

LINDA M PHELPS
Claimant

APPEAL NO. 22A-UI-13353-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNIVERSAL PROTECTION SERVICE LLC
Employer

**OC: 04/24/22
Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

On May 24, 2022, Linda Phelps (claimant) filed a timely appeal from the May 19, 2022 (reference 1) decision that disqualified the claimant for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion the claimant voluntarily quit on April 25, 2022 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 18, 2022. Claimant participated. The employer did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. Exhibit A, the claimant's handwritten appeal on a copy of the reference 01 decision was received into evidence.

ISSUES:

Whether the claimant 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:

Linda Phelps, claimant, was employed by Universal Protection Service, L.L.C. as a full-time security officer from the fall of 2021 until April 25, 2022, when she voluntarily quit. The claimant became a Universal employee when Universal took over security services at the Guardian Glass facility where the claimant had been posted for several years. The claimant's assigned post was in the front reception area of the guardian glass facility. During the last couple months of the employment, Nick McCraw was the claimant's immediate supervisor. The claimant's scheduled work hours were 3:00 p.m. to 11:00 p.m., Monday through Friday. The employer also assigned the claimant weekend on-call duties, which on-call duties the claimant understood to be a supervisor responsibility.

The claimant had a number of experiences as a Universal employee that led her to the conclusion the work environment was hostile and the decision she no longer wished to continue in the employment. About a month before the claimant quit, Mr. McCraw asked the claimant to report for work 1.5 hours early on a Wednesday so Mr. McCraw could leave 1.5 hours early that day. As part of the proposed arrangement, Mr. McCraw told the claimant she could report to work 1.5 hours later than usual on the Thursday following the Wednesday in question so that

the supervisor's early departure would not result in the claimant working overtime hours. The claimant did as requested both days. However, the supervisor subsequently reported to the post manager that the claimant was 1.5 hours tardy on the Thursday in question. When the claimant challenged the supervisor's assertion, the manager sided with the supervisor.

Within a week before the claimant quit, the supervisor removed from the reception area the chair the claimant had used for several years and replaced the chair with a larger chair that fit the supervisor but not the claimant.

When the cleaning staff used an ammonia spray in the claimant's work area while the claimant was working, the claimant concluded the supervisor was purposely trying to make her uncomfortable. When the cleaning staff moved a vacuum cord and hit the claimant's leg with the cord, the claimant concluded the conduct was intentional.

The claimant had an ongoing concern about the employer not allowing her into to the security office so that she could clock in on the security computer. The employer had commenced locking the security office door in 2021 as part of its pandemic protocol. After the alleged tardiness incident a month before the claimant quit, the claimant pressed to have access to the security office so she could clock in. The employer denied the request and, instead, offered to adjust the claimant's work hours documentation if the need arose.

On April 25, 2022, the claimant told the employer that it looked like the employer did not want the claimant there anymore. The claimant resigned and made her resignation effective immediately. The claimant then had wait for the employer to unlock the secured exit before the claim could leave the facility.

The claimant had gone to the employer's human resources staff with one or more concerns, but was redirected to the security manager.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Whether the claimant voluntarily quit employment because of dissatisfaction with the work environment or due to a personality conflict with a supervisor, the quit is presumed to be without good cause attributable to the employer. See Iowa Admin. Code r. 871-24.25(21) and (22).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The evidence in the record establishes an April 25, 2022 voluntary quit without good cause attributable to the employer. The most significant factor in the quit arise a month prior to the quit, when the claimant felt the supervisor had misrepresented the circumstances surrounding the claimant's late arrival. The claimant continued to report to work for a number of weeks after that incident, which means that incident was not what triggered the claimant April 25, 2022 resignation. The claimant cites as the final, triggering incident, the employer's refusal to allow the claimant to enter the security office at the start of her shift to clock in. However, for several months, the established protocol called for the claimant otherwise document her arrival. The chair switching and vacuum cord concerns appear to be matters wherein the claimant likely attributed ulterior motives where a reasonable person would conclude none existed. The evidence indicates dissatisfaction with the work relationships and dissatisfaction with the work environment. The evidence does not establish intolerable and/or detrimental working conditions that would have prompted a reasonable person to leave the employment. Accordingly, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The May 19, 2022 (reference 01) decision is affirmed. The claimant voluntarily quit the employment on April 25, 2022 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.



James E. Timberland
Administrative Law Judge

September 19, 2022
Decision Dated and Mailed

jet/mh

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>.

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 adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.