

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

ROBERT D PERRY
Claimant

APPEAL 23A-UI-09258-PT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 08/27/23
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the September 19, 2023, (reference 01) unemployment insurance decision that allowed benefits after a separation from employment. After due notice, a hearing was held on October 16, 2023. The claimant participated personally. The employer participated through Analytics Senior Manager Ranjan Utukuri. The administrative law judge took official notice of the administrative record.

ISSUES:

Whether the claimant voluntarily quit work without good cause attributable to the employer.
Whether claimant was overpaid benefits and, if so, whether the claimant should repay benefits.
Whether any charges to the employer's account can be waived.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time senior analytics consultant from June 17, 2019, until his employment with Wells Fargo Bank ended on July 31, 2023. As a senior analytics consultant, claimant was responsible for running reports and analyzing data for assigned projects. Claimant performed his job duties in a hybrid work schedule, wherein certain days claimant reported to the office for work and other days claimant worked remotely from home.

Claimant has suffered from anxiety and depression for several years. Claimant does not attribute this condition to the employer. In mid-June 2023, claimant went on a medical leave of absence due to his mental health symptoms. Claimant was scheduled to return to work on July 14, 2023. On July 14, claimant's medical provider released claimant to return to work, but restricted claimant to working only remotely from home.

Claimant informed the employer of his medical restriction and the employer initially tried to accommodate claimant's restriction. However, after two-weeks, the employer determined that the arrangement was not working and informed claimant that he would need to return to his hybrid

work schedule and work from the office several days per week. On July 27, 2023, claimant sent an email informing his supervisor that he was resigning his position due to his medical restriction that required him to work from home and claimant's unwillingness to deal with the long commute to and from work. The employer accepted claimant's resignation. As of the date of the hearing, claimant's medical provider had not lifted claimant's medical restriction.

Claimant's administrative records reflects that claimant filed his original claim for benefits with an effective date of August 27, 2023. Since filing his initial claim, claimant has filed no weekly claims and has received no unemployment insurance benefits. The employer did not participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his 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.*, 15-0104, 2016 WL 3125854, (Iowa June 3, 2016). A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or 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, claimant's written resignation to the employer is both evidence of his intention to sever the employment relationship and an overt act carrying out his intention. Claimant voluntarily quit his employment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer, or that another exception to the rule exists. Iowa Code § 96.6(2). If the claimant fails to meet their burden, the separation from employment is disqualifying.

Iowa Admin. Code r. 871-24.25(35) 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (c) Fully recover so that the claimant could perform all of the duties of the job.

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted:

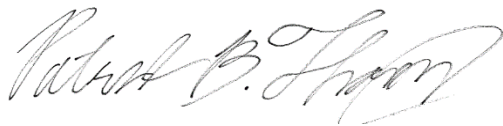
"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits."

In this case, claimant resigned his employment due to a non-work related medical condition. While I find claimant's testimony that he suffers from anxiety and depression credible, claimant has not presented any medical evidence showing an adequate health reason to justify termination, and claimant's medical provider has not yet released claimant to return to work full-duty. Claimant has not established that he has recovered and can return to work in the office several days per week, as is his burden. Moreover, while claimant requested to perform his job fully remotely to comply with his medical restriction, the employer is not obligated to accommodate a non-work related medical condition. While claimant's decision to quit his employment may have been for good personal reasons, it was not for a good cause reason attributable to the employer. As such, benefits must be denied.

Because no benefits were paid to claimant, the issues of overpayment, repayment, and chargeability are moot.

DECISION:

The September 19, 2023, (reference 01) unemployment insurance decision is reversed. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The issues of overpayment, repayment and chargeability are moot.



Patrick B. Thomas
Administrative Law Judge

October 24, 2023
Decision Dated and Mailed

PBT/jkb

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 STE100

Des Moines IA 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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

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 file a petition for judicial review in district court.

2. If you do not file 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 www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

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 STE100

Des Moines IA 50321

Fax: (515)281-7191

Online: 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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

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.