

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

---

**MAGALIS TORRES RODRIGUEZ**  
Claimant

**HY-LINE NORTH AMERICA LLC**  
Employer

**APPEAL 24A-UI-03273-SN-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/11/24**  
**Claimant: Appellant (1)**

---

Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant, Magalis Torres Rodriguez, filed an appeal from the March 20, 2024, (reference 01) unemployment insurance decision that denied benefits effective December 8, 2023, based upon her voluntary resignation. The parties were properly notified about the hearing. A telephone hearing was held on April 17, 2024, at 1:00 p.m. The claimant participated and testified. The employer participated through Kristie Ferrendelli, assistant location manager, and a hatchery manager, Jill Hoffman. Exhibits 1, 2, and 3 were received into the record.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or 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:

The claimant was employed full-time as a general laborer from November 11, 2023, until she was separated from employment on December 8, 2023, when she quit.

The employer has an attendance policy. The attendance policy states that an employee is to call at least one hour before their shift, if they expect that they will be absent. The employer has a policy that states that if an employee does not call in prior to the start nor report to work for three consecutive shifts, then they are to be considered to have voluntarily quit.

Before she was hired, the claimant was informed by Ms. Hoffman through an administrative assistant, Kimberly Rodriguez, that served as an informal Spanish interpreter for the employer that she would be hired as a general laborer. The employer provided the claimant's new hire form, which confirms she was hired as a general laborer. (Exhibit 1) The employer provided a copy of the general laborer description. (Exhibit 2)

The claimant's sister also worked for the employer. The two of them did not have transportation and relied on a coworker to carpool to work each day. The employer has never provided transportation to the claimant or any other employees at the plant.

On November 29, 2023, the claimant and her sister informed Ms. Hoffman through Ms. Rodriguez serving as interpreter that they were having difficulty finding a way to work because the coworker they carpooled with was ending his employment there at the end of the week.

On December 1, 2023, the claimant informed Ms. Hoffman through Ms. Rodriguez that they had not found a replacement to carpool yet. The claimant added that she did not know if they would be able to continue employment if a ride was not found. Ms. Hoffman replied that if she could not find one, that the employer needed to know right away, and that failure to find a ride would not be an exception to the employer's attendance rules.

The claimant did not call before the start of her shift for any of her shifts nor did she report to any of them for the following week from December 4, 2024 through December 8, 2023. Ms. Rodriguez left a message on the claimant's phone each day. None of these messages were returned.

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

The administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

The decision in this case rests, at least in part, on the credibility of the witnesses. It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, reviewing the exhibits submitted by the parties, considering the applicable factors listed above, and using his own common sense and experience, the administrative law judge finds the claimant's version of events to be more credible than the employer's recollection of those events.

Specifically, I do believe the claimant's allegation that she quit due to a work-related injury nor do I believe she quit due to a work-related injury. I make this finding for several reasons.

First, the claimant confirmed that she had the conversation with Ms. Hoffman and Ms. Rodriguez about lacking transportation to the plant near the time of her separation from employment. Nevertheless, the claimant maintained that this was corrected shortly thereafter. The claimant was unable to say the name of this new driver. She was also unable to state how many times this person drove her to the plant.

Second, the claimant confirmed that she and her sister quit on the same day. This is not consistent with the work-related injury reason because it is too coincidental that her sister would quit on the same day, especially given that neither was the driver for the other.

Third, the claimant initially gave both her last date worked as December 1, 2023 and her separation date as December 8, 2023. During my questioning of her about how many times this new driver took her to the plant, she was suddenly uncertain of these two dates as this new narrative, almost by necessity, placed her in the plant at least some of the days of the week after December 1, 2023.

Finally, the claimant gave inconsistent testimony regarding her injury or injuries. Initially, the claimant stated that the physical labor of pushing the cart caused her to quit due to pain in her neck, arms and overall body. Later in the hearing, the claimant informed me of a different injury to her hands that made them swell up. At times, the claimant appeared to maintain these were two separate injuries, but again that made it difficult for her to maintain that she did not know about how to receive treatment from the employer from a company doctor.

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:

- (1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.
- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The 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).

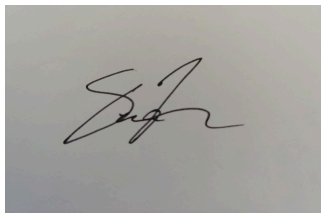
The claimant quit due to not having transportation. The employer had not ever agreed to furnish transportation. This reason is disqualifying under Iowa Admin. Code r. 871-24.25(1).

Furthermore, the claimant was absent without notice for three consecutive days in violation of a known rule, which is disqualifying under Iowa Admin. Code r. 871-24.25(4).

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 20, 2024, (reference 01) unemployment insurance decision is AFFIRMED. The claimant voluntarily left her employment on December 8, 2023, without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is centered on a light gray rectangular background.

---

Sean M. Nelson  
Administrative Law Judge II  
Iowa Department of Inspections & Appeals  
Administrative Hearings Division – UI Appeals Bureau

April 22, 2024  
Decision Dated and Mailed

smn/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 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  
Online: [eab.iowa.gov](http://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.