

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

ERIC C GRAY
Claimant

SALFORD INC
Employer

APPEAL 24A-UI-05850-CS-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/12/24
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

On June 20, 2024, the employer/appellant filed an appeal from the June 10, 2024, (reference 02) unemployment insurance decision that allowed benefit based on the claimant quitting on March 25, 2024. The Iowa Workforce Development representative determined the claimant quit because working conditions were detrimental to the claimant and the leaving was caused by the employer.

The parties were properly notified about the hearing. A telephone hearing was held on July 9, 2024. The claimant did not participate. The employer participated through Human Resources Generalist, Jenny Norton. After the hearing record closed, the claimant requested the record be reopened due to the conference system not allowing him to participate during the hearing. The administrative law judge granted the claimant's request. After due notice the record was reopened and a hearing was held on July 24, 2024. Employer's Exhibits 1, 2, 3, and 4 were admitted into the record. Administrative notice was taken of the claimant's unemployment insurance benefits records, including DBRO.

ISSUES:

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Is the claimant overpaid benefits?
- III. Should the claimant repay benefits?
- IV. Should the employer be charged due to employer participation in fact finding?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for employer on February 27, 2023. The claimant last worked as a full-time shift supervisor. The employer is a manufacturing business that fabricates steel into farming equipment.

The facility uses plasma cutters that as a byproduct generate smoke and other materials in the air. This caused breathing problems, sinus issues, and other lung issues for the claimant and the workers. In August 2023, the claimant complained to the owner about the air quality in the facility. The claimant informed that employer that he would be quitting if the air quality was not improved. The employer purchased an air evacuation system to improve the air quality and informed the claimant they would install it before the Winter. The claimant gave the employer the benefit of the doubt. In March 2024 the air evacuation system was at the facility but had not been installed.

The facility also had leaks in the roof of the building. This caused the water to leak into the electrical disconnects. This increased the risk of electrocution of the workers that used the welding equipment. The claimant complained to the employer about the issue and the employer provided a temporary fix over the plasma table but did not fix the issue of the water leaking into the electrical disconnects.

The Occupational Safety and Health Administration (OSHA) was called in to the employer's facility. OSHA issued violations to the employer and the employer was given time to correct the issues. The issues were not resolved prior to the claimant separating.

On March 25, 2024, the claimant text his supervisor and informed the supervisor that he was quitting. The claimant never returned to work for the employer. The employer had continuing work available to the claimant.

The claimant filed for benefits with an effective date of May 12, 2024. The claimant's weekly benefit amount is \$582.00. (DBRO). The claimant began receiving benefits May 12, 2024, and received them through July 20, 2024. (DBRO). The claimant received eight weeks of benefits worth a gross total of \$4,656.00. (DBRO).

The employer did not participate in the fact-finding interview due to the employer not receiving the notice until a couple days after the interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds that the claimant voluntarily quit with good cause attributable to the employer.

Iowa Code §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. 871-24.26(2)(3) and (4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (2) The claimant left due to unsafe working conditions.
- (3) The claimant left due to unlawful working conditions.
- (4) The claimant left due to intolerable or detrimental working conditions.

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. See *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993) (adapting good faith standard from *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330, 337 (Iowa 1988)) see also *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).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956). The claimant is not required to give the employer a notice of an intent to quit with regard to intolerable or detrimental working conditions prior to their quitting. *Hy-Vee, Inc. v. Emp. Appeal Bd.*, 710 N.W.2d 1, 6 (Iowa 2005). However, the claimant must prove that their **working conditions** were intolerable, detrimental, unlawful, or unsafe.

Where an employee quits because of allegedly detrimental working conditions the reasonable belief standard applies. Under these standards all that needs to be established is that a reasonable person would have felt compelled to resign by the conditions at the Employer. The "key question is what a reasonable person would have believed under the circumstances" and thus "the proper inquiry is whether a person of reasonable prudence would believe, under the circumstances faced by [Claimant]" that the circumstances at the employer "necessitated [Claimant] quitting." *O'Brien v. Emp. Appeal Bd.*, 494 N.W.2d 660, 662 (Iowa 1993); accord *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330, 337 (Iowa 1988)(misconduct case).

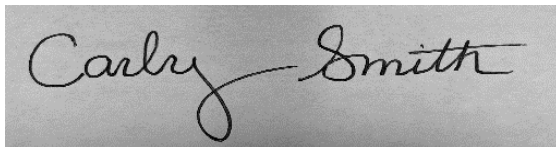
The claimant quit because of the safety issues with the employer. The claimant informed the employer in August 2023 that he was quitting if the air quality did not improve. This prompted the employer to purchase the air equipment. However, when the claimant quit on March 25, 2024 the equipment had not been installed. Also the claimant voiced his concerns about the safety of the building because of the leaking roof into the electrical disconnects. The employer temporarily fixed one of the leaks but left others unfixed that still exposed the claimant and the workers to the danger of electrocution. The claimant has established that the employer's place of employment was dangerous and unsafe. As a result, the claimant has met his burden of proving that a person of reasonable prudence would, under the circumstances faced by the claimant, conclude that the working conditions necessitated his quitting. Thus, the separation was with good cause attributable to the employer. As such, benefits are allowed, provided the claimant is otherwise eligible.

Since the claimant is eligible for benefits the issues of overpayment and chargeability are moot.

DECISION:

The June 10, 2024, reference 02, decision is AFFIRMED. The claimant voluntarily left employment on March 25, 2024 with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Since the claimant is eligible for benefits, the issues of overpayment and chargeability are moot.

A rectangular box containing a handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive, flowing style.

Carly Smith
Administrative Law Judge

July 24, 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.