

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

DENNIS L TEMPLER
Claimant

SUTHERLAND IMPLEMENT INC
Employer

APPEAL 24A-UI-03616-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/25/24
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Dennis L. Templer, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) April 1, 2024 (reference 01) unemployment insurance (UI) decision. IWD denied Mr. Templer REGULAR (state) UI benefits because IWD concluded he voluntarily quit on February 23, 2024 because he was dissatisfied with his work conditions and the employer did not cause his quitting. On April 10, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Templer and the employer for a telephone hearing scheduled for April 26, 2024.

The administrative law judge held a telephone hearing on April 26, 2024. Mr. Templer participated in the hearing personally. Gerald Lange, a current employee, and former co-worker of Mr. Templer, testified as a witness for Mr. Templer. The employer participated in the hearing through Randy Lange, owner/president. The administrative law judge admitted Employer's Exhibit 1 as evidence.

The administrative law judge concludes Mr. Templer is not eligible for UI benefits because he voluntarily quit without good cause attributable to the employer.

ISSUE:

Did Mr. Templer voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

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, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue.² The administrative law judge may believe all, part or none of any witness's testimony.³ In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations,

¹ Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

² *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007).

³ *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996).

common sense and experience.⁴ In determining the facts, and deciding what testimony to believe, the administrative law judge 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 conduct, age, intelligence, memory and knowledge of the facts; the witness's interest in the trial, and the witness's motive, candor, bias and prejudice.⁵

The following findings of fact show how the administrative law judge has resolved the disputed factual issues in this case. The administrative law judge assessed the credibility of the witnesses, considered the applicable factors listed above, and used his own common sense and experience.

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Templer began working for the employer about ten years ago. He worked as a part-time mechanic. His employment ended on February 23, 2024.

As of February 2024, Mr. Lange has been attempting to sell the business for 18 months. One of his employees (Employee A) was attempting to buy the business, but Employee A was having difficulty financing the purchase. Mr. Templer had previously said that he would not work for Employee A. Mr. Lange and Mr. Templer had talked previously about their shared interest in seeing the business remain open. Mr. Templer previously co-owned the business and had sold it to Mr. Lange. Mr. Lange was tired of waiting for the sale to finalize so he decided to put an end date on things.

Out of respect for Mr. Templer and knowing Mr. Templer's thoughts about potentially working for Employee A, Mr. Lange met with Mr. Templer over coffee on Thursday, February 15. Mr. Lange told Mr. Templer that if he did not have a firm yes on financing for the sale of the business by Friday of the following week – Friday, February 23 – Mr. Lange would close the business.

Later that day, Mr. Templer asked another employee (Employee B) if Mr. Lange had talked with him about his job ending. Employee B said no. Mr. Lange had not spoken with Employee B about Mr. Lange's end date for the sale because Employee B never expressed reservations about working for Employee A if Employee A bought the business. Mr. Lange and Mr. Templer did not discuss the matter again.

In the morning on Friday, February 23, Mr. Templer told Mr. Lange something to the effect of "Since this is my last day, here are my keys," and handed Mr. Lange his keys. Mr. Lange accepted the keys. Mr. Templer worked the rest of his shift, left when his shift was over, and his employment ended.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Templer's separation from employment on February 23, 2024 was without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

⁴ *Id.*

⁵ *Id.*

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:

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.⁶ A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.⁷ "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.⁸

In this case, on February 15 Mr. Lange told Mr. Templer that the employer would close the business in just over a week unless a specific thing happened. The specific thing was getting a firm yes on financing the sale of the business. If the specific thing happened, the employer would not close. If the specific thing did not happen, the employer would close. The employer never told Mr. Templer whether the specific thing happened. Instead, Mr. Templer quit in anticipation that the employer would close and lay him off. Mr. Templer's leaving was not for a good-cause reason attributable to the employer. So, Mr. Templer is not eligible for UI benefits.

⁶ Iowa Code § 96.6(2).

⁷ *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

⁸ *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

DECISION:

The April 1, 2024 (reference 01) UI decision is AFFIRMED. Mr. Templer voluntarily left his employment on February 23, 2024 without good cause attributable to the employer. Mr. Templer is not eligible for UI benefits until he has worked in and been paid wages for insured work equal to ten times his weekly UI benefit amount, as long as no other decision denies him UI benefits.



Daniel Zeno
Administrative Law Judge

April 30, 2024
Decision Dated and Mailed

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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**

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
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.