

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

SAVANNAH MOORE
Claimant

RUAN TRANSPORT CORP
Employer

APPEAL 24A-UI-03741-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/17/24
Claimant: Appellant (2)**

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On April 11, 2024, the claimant/appellant filed an appeal from the April 9, 2024, (reference 01) unemployment insurance decision that denied benefits based the claimant voluntarily quitting on March 21, 2024 for personal reasons. The Iowa Workforce Development representative determined the quitting was not caused by employer. The parties were properly notified about the hearing. A telephone hearing was held on April 30, 2024. The claimant participated. The employer did not call in to participate.

ISSUES:

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in May 2022. Claimant last worked as a full-time overnight dispatch coordinator.

The claimant applied for a dispatch supervisor position. The claimant was one of five people selected for the interview process. The other four applicants were women and the claimant was the only African American in the pool of applicants. The other applicants were hired after the claimant and did not have dispatch experience. The claimant was responsible for training new members in dispatch and performing duties that were normally performed by a supervisor.

The other four applicants were given formal interviews. The claimant was given a written questionnaire and asked to fill it out and submit it and then she would have a formal interview upon her return from vacation. The other applicants were not required to complete the written questionnaire. The claimant was later informed by the hiring supervisor that there was no need

for the interview. The hiring supervisor told others that he interviewed the claimant but in fact there was no formal interview.

On March 20, 2024, the claimant became upset when she became aware she was not given a formal interview. The hiring supervisor did not give the claimant a reason why he was refusing to interview her for the position. The claimant asked to go home for the remainder of the day. The claimant's immediate supervisor allowed the claimant to go home.

On March 21, 2024, the claimant was supposed to have a meeting with the hiring supervisor to discuss the situation. The hiring supervisor canceled the meeting and went home for the day without giving the claimant an explanation of why she was not being given a formal interview. The claimant notified her immediate supervisor that she was resigning due to the hiring supervisor refusing to interview her for the position. The claimant felt like she was being discriminated against and no longer wanted to remain employed with the employer. The claimant and her immediate supervisor agreed that claimant's last day would be April 5, 2024.

On March 22, 2024, the hiring supervisor sent the claimant a text informing her that she did not need to fulfill her two week notice based on the advice of human resources. The claimant was later contacted by human resources and they were not aware of the situation. The claimant's last day of work was March 21, 2024.

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(4) provided:

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:

(4) The claimant left due to intolerable or detrimental working conditions.

Iowa Code § 216.6 Unfair Employment Practices states:

1. It shall be an unfair or discriminatory practice for any:

a. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such applicant or employee, unless based upon the nature of the occupation. If a person with a disability is qualified to perform a particular occupation, by reason of training or

experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminatory practices prohibited by this subsection.

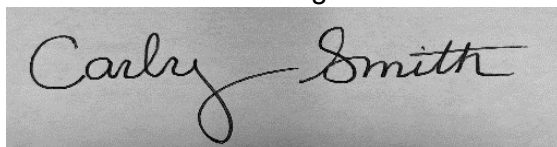
The Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. See *O'Brien 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).

Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Based on the evidence presented, it appears the claimant was qualified for the position and had the most experience out of the other four finalists for the position. The claimant trained other dispatchers and performed supervisory duties similar to the duties she would perform in the position she applied for. The employer refused to formally interview the claimant for the position although they interviewed the other four candidates. The claimant was the only African American to apply for the position and was not allowed the formal interview. The employer refused to meet with the claimant to discuss why she was not interviewed for the position. As a result, the claimant left her position due to the disparate treatment. The employer did not appear for the hearing to present evidence of a justifiable reason for their failure to formally interview the claimant for the position. The claimant has met her burden of proof of establishing intolerable or detrimental working conditions under Iowa law. The claimant's leaving was for good cause attributable to the employer. Benefits are allowed.

DECISION:

The April 9, 2024 (reference 01) unemployment insurance decision is REVERSED. Claimant voluntarily quit employment on March 21, 2024 with good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are allowed, provided the claimant is otherwise eligible.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive, flowing style. The first name "Carly" is connected to the last name "Smith".

Carly Smith
Administrative Law Judge

May 1, 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.