

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

RAYMOND L TIMMER
Claimant

APPEAL 22A-UI-11811-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANCHOR GROUP MANAGEMENT, INC
Employer

**OC: 04/17/22
Claimant: Appellant (4)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Raymond L Timmer, the claimant/appellant filed an appeal from the May 3, 2022 (reference 01) unemployment insurance decision that denied benefits because of an April 18, 2022 voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on June 21, 2022. Mr. Timmer participated personally. The employer did not participate in the hearing. The administrative law judge took official notice of the administrative record. Claimant's Exhibit A was admitted as evidence.

ISSUE:

Did Mr. Timmer voluntarily quit without good cause attributable to the employer, or did the employer discharge him from employment for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Timmer began working for the employer on January 1, 2022. He worked as a full-time maintenance technician. His employment ended on April 18, 2022.

Mr. Timmer had worked for the owner of the property for eight years. As of January 1, 2022, the employer, a property management company, took over. The employer asked Mr. Timmer to work for it and the employer stated that it would not change things because it liked how things were being run. Mr. Timmer reported to the property manager.

On a Tuesday, April 12 conference call with the district manager, the property manager and Mr. Timmer, the district manager told Mr. Timmer that he would need to begin to completing a timecard every day logging his activities for the day. Mr. Timmer was upset by this and did not want to do this. Mr. Timmer talked with the property manager after the call and told the property manager that he was not happy and that he was quitting. Mr. Timmer testified that he was just venting to a co-worker. The property manager relayed the information to the district manager.

The next day, Mr. Timmer called in sick. The property manager called Mr. Timmer that day, told him that she had relayed the information about his quitting to the district manager, and asked

him for a quit date. Mr. Timmer felt pressured to give a quit date since the district manager now knew he was quitting. Mr. Timmer told the property manager that April 28 would be his last day. The property manager told Mr. Timmer that he would need to send her a resignation letter. A few hours later, Mr. Timmer texted that property manager that he had decided not to give a quit date but that he would give the employer proper notice when he found a new job. Claimant's Exhibit A. Mr. Timmer did not write a resignation letter.

Mr. Timmer returned to work on Thursday. Mr. Timmer told the property manager that he had been frustrated about the timecard issue but that he planned to comply with the new change. The property manager told Mr. Timmer that she would relay the information to the district manager. On Friday, the district manager called Mr. Timmer and told him it would be best if he left. Mr. Timmer asked the district manager if she was terminating his employment. The district manager told Mr. Timmer that she was not, but he had given a quit date. Mr. Timmer told the district manager that he was not resigning and the employer would have to terminate his employment if it wanted his employment to end. The call ended.

On Monday, April 18, the district manager called Mr. Timmer and told him that his employment was terminated effective immediately. The district manager did not give Mr. Timmer a reason. The district manager told Mr. Timmer to leave the employer's equipment in the office. The property manager was not at work that day and Mr. Timmer did not want to leave equipment in the office without anyone there. Mr. Timmer left the employer's premises and returned the employer's property to the property manager the next day.

REASONING AND CONCLUSIONS OF LAW:

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

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(37) and (38) provide:

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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to

accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed

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 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).

In this case, Mr. Timmer told the employer that he was quitting and then he gave the employer a quit date of April 28, 2022. The employer accepted Mr. Timmer's quit when the property manager told the district manager, then asked Mr. Timmer for a quit date based on his statement that he was quitting. Mr. Timmer wrote in his appeal letter and testified that when he told the property manager that he was quitting he was really just venting to a co-worker. However, the property manager was not Mr. Timmer's co-worker; she was his manager. Mr. Timmer's leaving was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied as of April 28, 2022. However, before his April 28, 2022 quit date, the employer terminated Mr. Timmer's employment on April 18, 2022 because he had said he was going to quit. Per Iowa Administrative Code 871-24.25(38), Mr. Timmer is eligible for UI benefits from April 18, 2022 through April 27, 2022.

DECISION:

The May 3, 2022, (reference 01) unemployment insurance decision is MODIFIED IN FAVOR OF THE APPELLANT, Mr. Timmer. The employer terminated Mr. Timmer's employment on April 18, 2022 after he had given a notice of his intention to quit on April 28, 2022. Mr. Timmer is eligible for UI benefits from April 18, 2022 through April 27, 2022.

Mr. Timmer voluntarily left his employment without good cause attributable to the employer on April 28, 2022. Benefits are withheld as of that date until such time as Mr. Timmer has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

August 30, 2022
Decision Dated and Mailed

dz/mh

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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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.