

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

**SAMIRA H COVINGTON**  
Claimant

**WALMART INC**  
Employer

**APPEAL 24A-UI-01579-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/07/24**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Samira H. Covington, the claimant/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) February 5, 2024 (reference 02) unemployment insurance (UI) decision through her attorney, Bryant Engbers. IWD denied Ms. Covington REGULAR (state) UI benefits because IWD concluded she voluntarily quit on December 19, 2023 for personal reasons and the employer did not cause her quitting. On February 15, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Ms. Covington, Mr. Engbers, and the employer for a telephone hearing scheduled for March 1, 2024.

On March 1, 2024, before the scheduled time for the hearing, Mr. Engbers requested via email that the hearing be rescheduled because Ms. Covington was experiencing a family emergency, and she was out of the country. The administrative law judge held a pre-hearing conference on March 1, 2024 at the time scheduled for the hearing. Ms. Covington did not participate. Mr. Engbers participated on behalf of Ms. Covington. The employer participated through Amber Speth, co-manager. Mr. Engbers repeated his request to reschedule the hearing. The administrative law judge granted the request. The parties agreed to March 19, 2024 at 11:00 a.m. as the new hearing date and time. On March 4, 2024, the DIAL UI Appeals Bureau mailed a notice of hearing to Ms. Covington, Mr. Engbers, and the employer for a telephone hearing scheduled for March 19, 2024 at 11:00 a.m.

The administrative law judge held a telephone hearing on March 19, 2024. Ms. Covington participated in the hearing personally. Mr. Engbers represented Ms. Covington. The employer participated in the hearing through Amber Speth, co-manager. The administrative law judge admitted Claimant's Exhibit A-E and Employer's Exhibit 1-4 as evidence.

**ISSUE:**

Did Ms. Covington voluntarily quit without good cause attributable to the employer?

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<sup>1</sup> Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

## **FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Covington began working for the employer on February 2, 2023. She worked as a full-time store associate. Her employment ended on December 19, 2023.

Ms. Covington was injured at work on August 22, 2023 as she was lifting boxes of chicken. Ms. Covington's hand, arm and neck were injured. Ms. Covington went to an urgent care clinic the next day and then told her supervisor about her injury. Ms. Covington's supervisor told her to attend work the following day.

On August 24, Ms. Covington attended work and completed an accident report with her supervisor. The employer sent Ms. Covington to the employer's doctor that day. The doctor prescribed Ms. Covington medicine and restricted her to light duty work. Ms. Covington returned to light duty work until October 31.

On November 1, Ms. Covington went to the emergency room because due to pain in her arm. The next day, Ms. Covington requested to go on medical leave. Ms. Covington made her request to Sedgwick, the employer's third-party leave administrator. The employer told Ms. Covington to call in to Sedgwick each day she was not able to attend work. Ms. Covington did so.

On November 10, Ms. Covington again went to the doctor and the doctor released her to work on light duty. Ms. Covington tried to give a manager her doctor's note, but the manager declined to take the note and told Ms. Covington that the employer did not have light duty work available for her. Ms. Covington continued to call in to Sedgwick each scheduled workday. On November 17, the employer, through Sedgwick, denied Ms. Covington's request for medical leave.

The same day, Ms. Covington filed a worker's compensation (comp) claim. On November 30, the employer's attorney notified Ms. Covington's attorney that the employer scheduled Ms. Covington for a doctor's appointment on December 19 related to her worker's comp claim.

On December 7, the employer mailed Ms. Covington a letter. The letter told Ms. Covington that she needed to contact the employer by December 14, and if she did not do so the employer may deem her to have voluntarily terminated her employment. Ms. Covington received the letter in the mail. Ms. Covington did not contact the employer because the prescription medicines she was taking made her sleepy and incoherent.

On December 19, Ms. Covington attended the employer-scheduled doctor's appointment. The next day, Ms. Covington tried to get prescription drugs, but her employer-provided health insurance was declined. Ms. Covington contacted the employer who told her that her employment was over as of December 19 because she did not respond to the employer's December 7 letter.

Ms. Covington was out of the country from February 26, 2024 through March 12, 2024 caring for her mother. IWD has not issued a decision on Ms. Covington's ability to and availability for work during this time.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Covington voluntarily quit as of December 14, 2023 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.

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.<sup>2</sup> A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.<sup>3</sup> "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.<sup>4</sup>

In this case, the employer gave Ms. Covington notice in writing that she should contact the employer about her work status by December 14, 2023. In the letter, the employer specifically told Ms. Covington that if she did not contact the employer by this date, the employment relationship would end. Ms. Covington assumed the employer knew, or should have known, about her situation since the employer scheduled the December 19 doctor's appointment. So, Ms. Covington did not contact the employer as instructed.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Here, Ms. Covington did not follow up with the employer about her ability to return to work. Her failure to maintain contact with the employer was an abandonment of the job. Ms. Covington did what was best for her in the circumstances, but her leaving was not for good-cause reason attributable to the employer. Ms. Covington is not eligible for UI benefits.

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<sup>2</sup> Iowa Code § 96.6(2).

<sup>3</sup> *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

<sup>4</sup> *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

**DECISION:**

The February 5, 2024 (reference 02) UI decision is AFFIRMED. Ms. Covington voluntarily left her employment as of December 14, 2023 without good cause attributable to the employer. Ms. Covington is not eligible for UI benefits until she has worked in and been paid wages for insured work equal to ten times her weekly UI benefit amount, as long as no other decision denies her UI benefits.



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Daniel Zeno  
Administrative Law Judge

March 21, 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](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  
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.