

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

KORINA JORDAN
Claimant

**WALNUT CREEK EMPLOYMENT
SERVICES**
Employer

APPEAL 24A-UI-03841-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/17/24
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On April 15, 2024, the claimant filed an appeal from the April 8, 2024, (reference 01) unemployment insurance decision that denied benefits based on the determination that claimant voluntarily quit the employment without a showing of good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on May 1, 2024. Claimant, Korina Jordan, participated, with witness Tony Jordan, who observed but did not testify. Employer, Walnut Creek Employment Services, participated through Regional Executive Director Angela Lurth. No exhibits were admitted.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer, or was claimant discharged from employment for disqualifying misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 13, 2023. Claimant last worked as a full-time resident care partner. Claimant was separated from employment on March 15, 2024, when she is deemed to have quit.

Claimant and her husband both worked at the employer. Her husband's employment was terminated on March 15, 2024. The situation escalated and the police were called. Claimant was with her husband and the pair asked whether claimant was also fired. They did not receive an answer to the question. Thereafter, claimant found that the building was locked and she could not access the timecard system, so she assumed her employment had been terminated, as well. Once she was let in the building, she submitted her two-week notice, which was accepted effective immediately. The employer asked claimant to bring in her husband's employer-owned items. There was no follow-up after claimant submitted her two-week notice.

The employer did not intend to discharge claimant and would have continued to offer her work had she not resigned. She is still eligible for rehire. The employer never informed claimant that she had been discharged. It did not respond to the question when asked during the incident because the question had been yelled by claimant's husband and the employer did not wish to escalate the incident further.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not discharged but voluntarily left the employment without good cause attributable to employer.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

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) (amended 1998).

Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, No. 4-209/83-1081 (Iowa Ct. App. June 26, 1984). In *LaGrange*, the Iowa Court of Appeals sets forth the sequence of events leading to the claimant's separation – the sequence that has become the hallmark “quit, not discharge” example:

The claimant...assumed that his employment was terminated... The employer never made any mention that the claimant was being terminated. While it is possible that the claimant might have been terminated because of this incident, the record also shows that it is possible that the employer would have allowed the claimant to remain in his employment if he had appeared for work and discussed the matter. Rather than appearing for work, the claimant simply assumed that his employment was terminated and never had any contact with the employer for approximately one week.

Id. at *4 (internal citation omitted).

Since claimant resigned despite apparently thinking that her employment had been terminated, and her assumption of having been fired was erroneous, the claimant quit employment without good cause attributable to the employer. Benefits are denied.

DECISION:

The April 8, 2024, (reference 01) unemployment insurance decision is AFFIRMED. Claimant voluntarily left the employment without good cause attributable to employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Alexis D. Rowe
Administrative Law Judge

May 3, 2024
Decision Dated and Mailed

ar/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:

**Iowa 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:

**Iowa 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.