

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

ANA ARROYO
Claimant

LETICA CORPORATION
Employer

APPEAL 22A-UI-18608-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/09/22
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Letica Corporation, the employer/appellant, filed an appeal from the Iowa Workforce Development (IWD) October 28, 2022, (reference 01) unemployment insurance (UI) decision. The decision allowed benefits because IWD concluded that Ms. Arroyo quit on October 6, 2022 because working conditions were detrimental to her. The parties were properly notified of the hearing. A telephone hearing was held on November 29, 2022. The employer participated through Adam Boysel, quality manager, Kara Steinke, human resources (HR) coordinator, and Heidi Rock, HR manager. Ms. Arroyo participated personally. The administrative law judge took official notice of the administrative record and admitted Employer's Exhibit 1 as evidence.

ISSUE:

Did Ms. Arroyo voluntarily quit without good cause attributable to the employer?
Was Ms. Arroyo overpaid benefits?
If so, should she repay the benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Arroyo began working for the employer on October 27, 2021. She worked as a full-time quality analyst. Ms. Arroyo worked the night shift, 7:00 p.m. through 7:00 a.m. Ms. Arroyo reported to Mr. Boysel who does not work the night shift. The other night shift employees reported to the night shift supervisor. Mr. Boysel and the night shift supervisor both report to the plant manager. Ms. Arroyo's employment ended on October 6, 2022.

At about 6:30 a.m. on Thursday, October 6, 2022, Ms. Arroyo reminded another employee (Employee A) to complete a task she needed to be done so she could do her job. Ms. Arroyo had already asked Employee A two times to complete the task. Employee A became upset, threw product on the floor, and threatened to burn Ms. Arroyo's tires on her vehicle. Ms. Arroyo reported the incident threat to Mr. Boysel and the night shift supervisor and left at the end of her shift. Mr. Boysel reported the threat to HR and the plant manager. Mr. Boysel also talked with the night shift supervisor who told Mr. Boysel that Employee A denied making the threat.

Ms. Arroyo returned to work for her next scheduled shift at 7:00 p.m. on October 6. Ms. Arroyo began doing her usual walk-through at the beginning of the shift. Mr. Boysel waited to talk with Ms. Arroyo about the threat she had reported on her previous shift to give Ms. Arroyo time to complete her walk-through.

At about 8:00 p.m., a quality issue came up about a machine. Employee A reported the issue to his manager, the night shift supervisor, but did not talk with Ms. Arroyo. The night shift supervisor came to Ms. Arroyo and asked Ms. Arroyo why she didn't do her job and notice the issue. Ms. Arroyo asked the night shift supervisor why Employee A did not come to her with the issue since the night shift is a team. The night shift supervisor said "oh, we're a team" and repeated this several times. Ms. Arroyo took the night shift supervisor to be mocking her. Ms. Arroyo became frustrated and upset, threw a bucket on the ground, and yelled "Fuck you, [night supervisor's name], I'm leaving."

From his office, Mr. Boysel saw Ms. Arroyo talking with the night shift supervisor and throw the bucket on the ground. Mr. Boysel went to where Ms. Arroyo was. Ms. Arroyo was putting her coat on. Mr. Boysel asked Ms. Arroyo what was going on. Ms. Arroyo said she was leaving and quitting. Mr. Boysel again asked what was doing on. Ms. Arroyo explained the situation and said she was upset. Ms. Arroyo told Mr. Boysel that she was giving her two-week notice and she left. Ms. Arroyo never returned to work. Ms. Arroyo testified that she quit because of a hostile work environment in that she told the employer about the issues she was facing on the night shift and the employer did not address the issues.

Ms. Arroyo had previously made a complain to HR and she had talked with Mr. Boysel two-to-three times about employees on the night shift. In early September 2022, a quality issued had come up and Ms. Arroyo, the night shift supervisor, and Employee A decided on a fix for the problem. They reported the issue and the fix to the production manager. The production manager yelled at Ms. Arroyo in front of other employees, told her "just don't" when she tried to explain the situation, and walked away. Ms. Arroyo felt belittled and did not appreciate the way the production manager talked to her. Ms. Arroyo reported this incident to HR. HR talked with the production manager about how he talked to Ms. Arroyo. HR did not follow up with Ms. Arroyo about her complain, which made Ms. Arroyo think that HR had not done anything.

Ms. Arroyo had also reported to Mr. Boysel two-to-three times about night shift employees not being team players and having bad attitudes. Ms. Arroyo reported that night shift employees would get upset, raise their voice, throw things on the floor, and/or hit things when she brought a quality issue to them. Mr. Boysel had talked with the night shift supervisor about the complaints and the night shift supervisor had spoken with the night shift employees. Neither Mr. Boysel nor the night shift supervisor followed up with Ms. Arroyo about her complaints to Mr. Boysel.

Ms. Arroyo has received \$0.00 in REGULAR (state) UI benefits on her claim. The employer participated in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Arroyo's separation from the employment was with 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) 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:

(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.

Iowa Admin. Code r. 871-24.26(4) provides:

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.¹ The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.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.³ "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer.⁴ Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the law.⁵

¹ *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

² Iowa Code § 96.6(2).

³ *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

⁴ *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer.").

⁵ *Raffety*, 76 N.W.2d at 788.

Generally, an employee is required to give notice of an intent to quit to give the employer an opportunity to fix working conditions.⁶ In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. However, the requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. The Iowa Supreme Court concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions.⁷

Therefore, Ms. Arroyo was not required to give the employer a notice about intolerable or detrimental working conditions before she quit. But Ms. Arroyo must prove that her working conditions were intolerable, detrimental, or unsafe. In this case, Ms. Arroyo has done that.

It is reasonable to the average person that Ms. Arroyo should not have to work in an environment where co-workers continuously raised their voice, threw things on the floor, hit things, and/or make threats to her when she brought a quality issue to them. Ms. Arroyo took the reasonable step of reporting the issues to her manager, Mr. Boysel, the night shift supervisor and HR to give the employer reasonable opportunity to address her concerns. The employer did not take effective action to address or resolve the problem. Instead, the employer, by its lack of follow-up with Ms. Arroyo after her complaints, essentially told Ms. Arroyo to try to work it out and/or bear it. Ms. Arroyo's frustration and anger on her last day at work do not negate the employer's lack of action to address or resolve the issues she had raised multiple times. Ms. Arroyo's job ended when she quit because of the working conditions and Ms. Arroyo has established that her working conditions were intolerable and detrimental. The employer's lack of action means the cause for Ms. Arroyo's quit is attributable to the employer. Benefits are allowed.

Since Ms. Arroyo is eligible for REGULAR (state) UI benefits, the issues of overpayment and repayment are moot.

⁶ *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996).

⁷ *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

DECISION:

The October 28, 2022, (reference 01) UI decision is AFFIRMED. Ms. Arroyo voluntarily left her employment with good cause attributable to the employer. Benefits are allowed.



Daniel Zeno
Administrative Law Judge

December 2, 2022
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with this 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 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.