

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

VICTOR M VENEGAS

Claimant

APPEAL 23A-UI-09679-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY

Employer

OC: 09/17/23

Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Victor M. Venegas, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) October 4, 2023 (reference 01) unemployment insurance (UI) decision. IWD denied Mr. Venegas REGULAR (state) UI benefits because IWD concluded he voluntarily quit on June 1, 2023 because he was dissatisfied with his work conditions and the employer did not cause his quitting. On October 17, 2023 the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Venegas and the employer for a telephone hearing scheduled for October 26, 2023.

The undersigned administrative law judge held a telephone hearing on October 26, 2023. Mr. Venegas participated in the hearing personally through a Spanish interpreter employed by CTS Language Link. The employer did not participate in the hearing.

ISSUE:

Did Mr. Venegas voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Venegas began working for the employer, a meat packing plant, in November 2022. He worked as a full-time line worker. His employment ended on June 1, 2023.

In late May 2023, while Mr. Venegas was doing his job, Mr. Venegas' supervisor threw a large piece of pig meat hitting Mr. Venegas. The supervisor was yelling but Mr. Venegas did not know why the supervisor did this. Mr. Venegas reported the incident to the employer's human resources (HR) office. They took no action.

A few days later, on June 1, another supervisor told Mr. Venegas to switch to another job. Mr. Venegas asked why, and the supervisor yelled that he needed to do so because she said so. Mr. Venegas went to the employer's HR office again and reported this incident. The HR staff told Mr. Venegas that that's how the supervisor is, the supervisor makes the rules, and if he

¹ Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

didn't like it, he could quit. Since the employer would not address the issues Mr. Venegas raised, he quit. Mr. Venegas had no prior discipline record.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Mr. Venegas' separation from 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 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.

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.² A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.³ "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.⁴ "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer.⁵ Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the law.⁶

² Iowa Code § 96.6(2).

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

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

⁵ *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.").

⁶ *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.⁷ 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.⁸

So, Mr. Venegas was not required to give the employer a notice about intolerable or detrimental working conditions before he quit. But he must prove that his working conditions were intolerable, detrimental, or unsafe. In this case, Mr. Venegas has done so.

It is reasonable to the average person that Mr. Venegas should not have to work in an environment where his supervisor hits him with pig meat and the employer does nothing to address the issue. Mr. Venegas' job ended when he quit because of his working conditions and Mr. Venegas has established that his working conditions were intolerable and detrimental. Mr. Venegas' quit is attributable to the employer and he is eligible for UI benefits.

DECISION:

The October 4, 2023 (reference 01) UI decision is REVERSED. Mr. Venegas left his employment with good cause attributable to the employer. Mr. Venegas is eligible for REGULAR (state) UI benefits, as long as no other decision denies him benefits.



Daniel Zeno
Administrative Law Judge

October 27, 2023
Decision Dated and Mailed

scn

⁷ *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).

⁸ *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

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**

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 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.