

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

RONNIE E HARRINGTON
Claimant

PACKERS SANITATION SERVICES INC
Employer

APPEAL 24A-UI-06222-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/24/24
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 3, 2024, (reference 03) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. An in-person hearing was held in Mason City, Iowa, on July 29, 2024. Claimant Ronnie Harrington participated and testified. Employer Packers Sanitation Services, Inc. did not appear at the location at the time of the hearing and did not participate.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a sanitation workers from November 2023, until June 6, 2024, when he quit.

Claimant's supervisor treated him differently than other employees. Claimant needed to miss work in late-April 2024 due to dental issues. He provided a note from his doctor to cover the absence; however, his supervisor Wanza did not believe it was a legitimate doctor's note, and told claimant he was going to investigate whether it was a legitimate note. Employer placed claimant on a one-week probation due to his absence, and told him if he missed any additional work during that period he would be discharged.

On May 2 and May 3, 2024, claimant was absent for a scheduled colonoscopy. Claimant provided a doctor's note on May 6, 2024, and again Wanza did not believe that the note was issued by a doctor and told claimant he would investigate. Employer placed claimant on a thirty-day probationary period at this point, and if he missed work during that period he would be discharged.

On June 5, 2024, claimant attempted to clock in, but the machine used for clocking in and out was not working correctly so he could not clock in. Claimant's lead worker had the same problem at the same time. At the end of the day, claimant was unable to clock out because the system did not show him as having clocked in. Claimant explained this to Wanza, who became upset and in front of other employees repeatedly accused claimant of lying. Claimant told him to contact the lead worker who was present at the start of the day. The lead worker confirmed that claimant had in fact tried to clock in that morning at the same time the lead worker tried unsuccessfully to clock in.

At the daily morning meeting on June 6, 2024, Wanza continued to draw attention to claimant and accused him of not being an honest employee. Claimant felt he could not continue to work in that environment and submitted his verbal resignation that same day, effective immediately.

Claimant believed other employees were treated more favorably than he was because they were not required to provide doctor's notes and were not placed on probationary periods for absences. Claimant believes Wanza treated him differently because of his age, as claimant was the oldest employee. Claimant did not bring his concerns to anyone else at employer because he was not provided with contact information for human resources, as there was no human resources on site, or any other method to bring forward a complaint. Additionally, claimant was told by other employees that he could only bring his concerns to his supervisor or else he would get in trouble for going over his head. Claimant filed a complaint with the Iowa Civil Rights Commission alleging discrimination by employer on the basis of age.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.26(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.

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). 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).

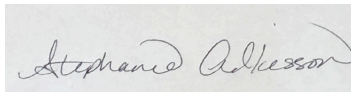
The claimant is not required to give the employer a notice of an intent to quit with regard to intolerable or detrimental working conditions prior to their quitting. *Hy-Vee, Inc. v. Emp. Appeal Bd.*, 710 N.W.2d 1, 6 (Iowa 2005). However, the claimant must prove that their working conditions were intolerable, detrimental, unlawful, or unsafe.

Here, claimant has demonstrated that his working conditions were intolerable. His supervisor frequently accused him of producing fake doctor's notes and lying about hours worked and he did not accuse other younger employees of lying. Claimant could not complain about the treatment because employer never provided information about how to make such a complaint, and further he was told not to go above his supervisor's head for any reason. Claimant continued to be afraid that he would be discharged for conduct that employer allowed other employees to engage in.

Claimant filed a complaint with the Iowa Civil Rights Commission alleging he had been discriminated against on the basis of age. No one appeared on behalf of the employer to rebut claimant's testimony. Claimant has met his burden of proving that a reasonable person would, under the circumstances faced by claimant, conclude that the conditions of his work necessitated his quitting. Claimant quit with good cause attributable to employer. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The July 3, 2024, (reference 03) unemployment insurance decision is REVERSED. Claimant quit with good cause attributable to the employer due to intolerable working conditions. Benefits are allowed, provided claimant is otherwise eligible.



Stephanie Adkisson
Administrative Law Judge

July 30, 2024
Decision Dated and Mailed

rvs

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.