

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

ASHLEY R RITCHIE
Claimant

DIVERSIFIED SERVICES FOR INDUSTRY
Employer

APPEAL 24A-UI-03610-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On April 5, 2024, the claimant/appellant filed an appeal from the April 4, 2024, (reference 01) unemployment insurance decision that denied benefits based the claimant voluntarily quitting on January 5, 2024 due to the terms of your employment. The Iowa Workforce Development representative determined the quitting was not caused by the employer. The parties were properly notified about the hearing. A telephone hearing was held on April 26, 2024. Claimant participated. Employer participated through hearing representative, John O'Fallon, Regional Human Resources Manager, Julie Stephens, and Regional Operations Manager, Teri Dobbs.

ISSUES:

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer again on May 31, 2022. Claimant last worked as a full-time Area Operations Manager.

When the claimant leaves early she is required to notify her supervisor, Teri Dobbs, at least two hours in advance, if possible. The claimant is also required to make sure every position is covered and that another person in management is there to cover in the claimant's absence.

On January 4, 2024, the claimant was scheduled to work from 7:00 a.m. until at least 3:30 p.m. The claimant arrived at 7:30 a.m. and left at approximately 9:00 a.m. The claimant left early to get family pictures. Ms. Dobbs was not aware the claimant left early. Ms. Dobbs called the claimant multiple times regarding a customer issue. The claimant did not respond to Ms. Dobbs' phone calls. Ms. Stephens tried calling the claimant and did not get a response.

On January 5, 2024, Ms. Dobbs called the claimant multiple times regarding the customer issue. The claimant did not return Ms. Dobbs' phone calls (approximately 15 missed calls in

approximately three hour time period). As a result, Ms. Dobbs drove to the plant to address the customer issue. The claimant did not notify Ms. Dobbs she would be late arriving at work. Ms. Dobbs continued calling the claimant and did not get a response. When Ms. Dobbs arrived at the plant she spoke to another supervisor named Morgan. Morgan told Ms. Dobbs that he did not know where the claimant was and that she did not appear for work. Ms. Dobbs asked Morgan to call the claimant, however, the claimant did not answer his call. Ms. Dobbs and Morgan discussed the customer issue and Morgan indicated that he did not know how to fix the customer's issue. Ms. Dobbs told Morgan that he needed more training. The claimant returned Morgan's phone call. The claimant indicated that she would be at work in a little bit.

After a couple hours the claimant did not arrive. Ms. Dobbs called the claimant again and the claimant did not answer. Another hour or two passed and the claimant called Morgan. Morgan again put the phone on speaker with Ms. Dobbs and had a conversation with the claimant where Morgan told the claimant "you need to get your ass down here right now, I wasn't trained properly." The claimant responded she was "done" and then told Morgan to get her stuff out of her office. Ms. Dobbs said okay and told Morgan to go get the claimant's belongings from her office and took them to the claimant. Ms. Dobbs called Morgan while he was with the claimant and told him to retrieve the company computer and phone while he was there. At that time the claimant told Morgan that she did not want to quit. Ms. Dobbs said "I'm sorry, but when you tell someone you are quitting I have the computer and phones shut down. That's company policy." A few days later the claimant asked for her job back and Ms. Dobbs told her that at this time it was not possible but she was more than welcome to contact HR."

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

While the employer has the burden to establish the separation was a voluntary quitting of employment rather than a discharge, 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). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1986)). The term "voluntary" requires volition and generally means a desire to quit the job. *Id.* (citing *Bartelt v. Emp't Appeal Bd.*, 494 N.W.2d 684, 686 (Iowa 1993); *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Cook*, 299 N.W.2d at 701 (Iowa 1986); *Moulton v. Iowa Emp't Sec. Comm'n*, 34 N.W.2d 211, 213 (1948)). There must be substantial evidence to show that claimant's absence from work was voluntary.

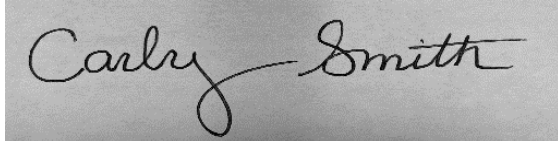
In this case, the claimant did not follow the proper procedure to notify the employer she was leaving early on January 4, 2024. Ms. Dobbs was not aware that the claimant was going to be absent which is evident through the fact she and Ms. Stephens attempted to call the claimant multiple times.

Then on January 5, 2024, the claimant did not arrive at work and did not follow the proper policy to notify the employer of her absence. Ms. Dobbs and Morgan attempted to call the claimant multiple times to figure out what was going on and did not receive a response over the course of multiple hours. Eventually the claimant called Morgan and told him that she would arrive at work in a "little bit," Hours went by and the claimant did not arrive at work. The claimant eventually returned Morgan's additional calls and told him that she was "Done" and "to get her stuff from her office."

The fact that claimant was not at work when she was scheduled to work, did not return phone calls from her supervisor for multiple days, and then had a conversation saying that she was done and wants her personal items from her office indicates that claimant submitted her resignation to the employer. The employer accepted the claimant's resignation and retrieved her belongings and returned them to her. When the claimant received her personal items she changed her mind and said she was not quitting. However, the employer already accepted her resignation. While the claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The April 4, 2024 (reference 01) unemployment insurance decision is AFFIRMED. The claimant voluntarily quit employment on January 5, 2024 without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times their weekly benefit amount after the January 5, 2024 separation and provided the claimant is otherwise eligible.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Carly Smith
Administrative Law Judge

aPRIL 29, 2024
Decision Dated and Mailed

CS/jkb

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 Ave 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 Ave 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.