

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

JON L HIGHTSHOE
Claimant

CABLE GLASS LLC
Employer

APPEAL 25A-UI-00057-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/08/24
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge

STATEMENT OF THE CASE:

Jon L. Hightshoe, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) December 30, 2024 (reference 01) unemployment insurance (UI) decision. IWD denied Mr. Hightshoe REGULAR (state) UI benefits because IWD concluded he voluntarily quit on October 28, 2024 for personal reasons and the employer, Cable Glass LLC, did not cause his quitting. On January 6, 2025, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Hightshoe and the employer for a telephone hearing scheduled for January 22, 2025.

The administrative law judge held a telephone hearing on January 22, 2025. Mr. Hightshoe participated in the hearing personally. The employer did not participate in the hearing. The administrative law judge admitted Department's Exhibit 1 and Claimant's Exhibit A as evidence.

The administrative law judge concludes Mr. Hightshoe is eligible for REGULAR (state) UI benefits based on how his job ended with this employer.

ISSUE:

Did Mr. Hightshoe 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. Hightshoe began working for the employer in 2014. He worked as a full-time journeyman glassman. His employment ended on October 28, 2024.

On Friday, October 18, 2024, the employer gave Mr. Hightshoe two paychecks – one for his first week of work and one for his last week of work. The employer usually gave Mr. Hightshoe two paychecks when the employer was laying him off. This time the employer did not tell Mr. Hightshoe that he was laid off. The employer simply gave him two checks.

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

The employer then told Mr. Hightshoe about a job out of town. Mr. Hightshoe accepted the job and worked the week of October 21-25. On Monday, October 28, one of Mr. Hightshoe's co-worker's (Employee A) family members was involved in a serious vehicle accident. Mr. Hightshoe was Employee A's ride to the out of town job. Mr. Hightshoe told his supervisor that he would give Employee A a ride to their family member. The supervisor said okay. Mr. Hightshoe drove Employee A back to town, then told his supervisor that he would return to the out of town job. The supervisor told Mr. Hightshoe to not return. So, Mr. Hightshoe did not return.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Hightshoe did not quit. The employer terminated his employment for a reason that does not disqualify him from receiving REGULAR (state) UI benefits.

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 Code section 96.5(2)(a) and (d) provide, in relevant part:

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.

- d. For the purposes of this subsection, "misconduct" means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. Misconduct is limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

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. 871-24.32(4) provides:

(4) Report required. The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

In general, the employer has the burden to prove that a claimant is disqualified from receiving UI benefits.² The employer has the burden of proof in establishing disqualifying job misconduct.³ The issue is not whether the employer made a correct decision in separating Mr. Hightshoe from employment, but whether he is entitled to unemployment insurance benefits.⁴ Misconduct must be "substantial" to warrant a denial of job insurance benefits.⁵ But, the claimant has the burden of proving that a voluntary leaving was for good cause attributable to the employer.⁶ A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.⁷ "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.⁸

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all, if it is not contrary to public policy. But, if the employer fails to meet its burden of proof to establish job related misconduct as the reason for the separation, the employer incurs potential liability for UI benefits related to that separation. A decision about whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation of the employer's policy or rule is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to, or including, discharge for the incident under its policy.

In this case, neither Mr. Hightshoe's actions nor words showed any intention of him ending his employment with the employer. Mr. Hightshoe did not quit. The employer terminated his employment on October 28, 2024. But, the employer did not participate in the hearing and provided no evidence of disqualifying, job-related misconduct on the part of Mr. Hightshoe. Since the employer has not established disqualifying job-related misconduct on the part of Mr. Hightshoe, he is eligible for REGULAR (state) UI benefits, as long as no other decision denies him UI benefits

² Iowa Code § 96.6(2).

³ *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

⁴ *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

⁵ *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

⁶ *Id.*

⁷ *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

⁸ *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

DECISION:

The December 30, 2024 (reference 01) UI decision is REVERSED. Mr. Hightshoe did not quit. The employer discharged him from employment on October 28, 2024 for a reason that does not disqualify him from receiving UI benefits. Mr. Hightshoe is eligible for REGULAR (state) UI benefits, as long as no other decision denies him UI benefits.

/s/ *Daniel Zeno*

Daniel Zeno
Administrative Law Judge

January 24, 2025
Decision Dated and Mailed

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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 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.