

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

JESSICA N YOUNG
Claimant

BWP SALES LLC
Employer

APPEAL 24A-UI-07014-DS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/23/24
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(19) – Voluntary Quit
Iowa Code Section 96.3(7) – Overpayment of Benefits
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

On August 1, 2024, the employer filed an appeal from the unemployment insurance decision dated July 23, 2024, (Reference 02) that allowed benefits. Notice of hearing was mailed to the parties' last known addresses of record for a telephone hearing to be held at 9:00 a.m. on August 21, 2024. The claimant participated personally. The employer participated through Diane Peden, Co-Owner. No exhibits were offered or admitted to the record. The administrative law judge took official notice of the administrative record.

ISSUES:

Did the claimant voluntarily quit the employment without good cause?
Was the claimant overpaid benefits?
Should the claimant repay benefits or should the employer be charged based upon participation in the fact-finding interview?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant worked as an Ecommerce Associate for this employer from July 18, 2022, until June 27, 2024, when she quit the employment. At the time of the discharge, the claimant was considered a Lead Ecommerce Associate. The claimant's original supervisor was replaced in January of 2024 with the owner's son, Noah Peden. The claimant experienced difficulty with Noah including inappropriate remarks, unwanted hugging and antagonistic personal interactions. The claimant repeatedly complained to the employer about Noah, and he was eventually demoted on May 27, 2024. However, the employer did not immediately place anyone in his former supervisory position. As a result, Noah continued to interact with the claimant and continued his former behaviors.

On June 21, 2024, the employer determined that Diane Peden, Co-Owner, would take the supervisory role. However, Noah continued to have direct interactions with the claimant despite

the previous issues. On June 26, 2024, the claimant had another negative interaction with Noah that resulted in him making insulting remarks about the claimant and Diane Peden. The claimant was frustrated by this and went to the employer in distress. She was told to take the afternoon off.

The next day, the employer met with the claimant and told her that her work was valued, but that she needed to learn to work with Noah. The claimant determined that she was going to continue to be subject to these interactions if she continued the employment, and so she quit effective immediately.

Continuing work was available to her had she not quit the employment, and her job was not in jeopardy.

The claimant's benefit payment records indicate that the claimant has received \$2,260.00 in unemployment insurance benefits for seven weeks since filing her claim with an original effective date of June 23, 2024. The employer did not participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant left this employment for good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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(4) 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The 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).

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The claimant credibly testified that she quit the employment because of ongoing issues with a member of the employer's management staff. The employer was aware of these issues but continued to allow this individual to interact with the claimant and to make the claimant's daily work difficult. This constitutes a good cause reason for quitting the employment attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Because the claimant's separation was not disqualifying, the issues of overpayment, repayment and employer participation are moot.

DECISION:

The July 23, 2024, (Reference 02) decision allowing benefits is AFFIRMED. The claimant quit for good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account may be charged.



David J. Steen
Administrative Law Judge
Iowa Department of Inspections, Appeals and Licensing
Administrative Hearings Division - UI Appeals Bureau

September 16, 2024
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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

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 file a petition for judicial review in district court.

2. If you do not file 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 www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

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
Online: 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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

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.