

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

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**SHERI BROWN**  
Claimant

**WESLEYLIFE**  
Employer

**APPEAL 24A-UI-03347-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

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Iowa Code §96.5(2)a-Discharge/Misconduct  
Iowa Code §96.5(1)- Voluntary Quit  
Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

On March 27, 2024, the claimant/appellant filed an appeal from the March 20, 2024, (reference 01) unemployment insurance decision that denied benefits based the claimant voluntarily quitting on March 8, 2024 due to a nonwork-related illness or injury. 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 18, 2024. Claimant participated. Employer participated through hearing representative Jennifer Groenwold and witness Cindy Severson. Administrative notice was taken of claimant's unemployment insurance benefits records. Claimant's Exhibits A, B, C and D were admitted into the record.

**ISSUES:**

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on October 5, 2021. Claimant last worked as a full-time homemaker cook.

Claimant began having back problems in November 2023. Claimant went on FMLA leave beginning December 16, 2023. The claimant does not associate her back problems to her employment. Claimant was expected to return after six weeks, however, the FMLA leave was extended for an additional six weeks due to the claimant's ongoing back problems. At the end of February the employer was informed that at the end of the twelve weeks the claimant would

need additional time to recover because of the upcoming back surgery. The claimant was put on a medical work restriction by her physician that prohibited her from performing all work.

Claimant's FMLA was exhausted on March 8, 2024. On or about March 8, 2024, the employer informed the claimant they could not extend the medical leave and that they could no longer continue claimant's employment. (Exhibit C). Claimant was separated from employment on March 8, 2024.

Claimant had her back surgery and is on a medical restriction prohibiting her from working through June 22, 2024. (Exhibit D). Claimant anticipates the work restriction being amended to allow her to return back to work before June 22, 2024.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows: As a preliminary matter I find that the claimant voluntarily quit and was not discharged from employment.

Iowa Admin. Code r. 24.22(2) provides:

Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

**(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.**

(3) The period or term of a leave of absence may be extended, *but only if there is evidence that both parties have voluntarily agreed.*

(emphasis added).

In this case the claimant was on an approved leave of absence for twelve weeks. The twelve weeks ended on March 8, 2024, at the end of the mutually agreed upon date the claimant was not able to return to work due to being on a medical restriction prohibiting her from working. Under Iowa Admin. Code r. 24.22(2)(j)(2) the claimant is deemed to have voluntarily quit since

she was not able to return to work and the employer was not willing and/or able to extend the medical leave of absence. Next it must be determined if the claimant had good cause for quitting the employment.

Iowa Code § 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25(35) 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:

- (35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:
  - (a) Obtain the advice of a licensed and practicing physician;
  - (b) Obtain certification of release for work from a licensed and practicing physician;
  - (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
  - (d) Fully recover so that the claimant could perform all of the duties of the job.

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

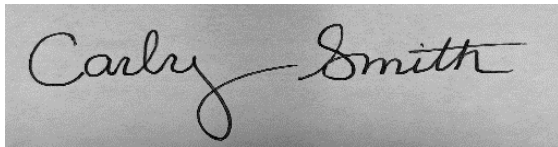
"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

The claimant has not established the claimant's medical condition was work related, as is the claimant's burden; thus, the claimant must meet the requirements of the administrative rule 871-24.25(35).

The claimant is on a full medical restriction prohibiting her from working at this time. Since the claimant has not obtained a certification of release, is not fully recovered, and has not returned to the employer and offered her services, claimant is deemed to have voluntarily quit without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The March 20, 2024 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment on March 8, 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 March 8, 2024 and provided they are otherwise eligible.

A rectangular box containing a handwritten signature in black ink that reads "Carly Smith".

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Carly Smith  
Administrative Law Judge

April 19, 2024  
Decision Dated and Mailed

cs/scn

**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 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.