

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building, 4<sup>TH</sup> Floor  
Des Moines, Iowa 50319  
eab.iowa.gov**

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**JESSICA S GOETZ**

Claimant

and

**TLH CLEANING LLC**

Employer

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**HEARING NUMBER: 22B-UI-04179**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.5-1, 96.5-2-A

**DECISION**

**UNEMPLOYMENT BENEFITS ARE DENIED**

The Employer appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

**FINDINGS OF FACT:**

The Claimant, Jessica Goetz, worked (off and on) for TLJ Cleaning from December of 2016 until December 25, 2021 as a part-time maintenance employee responsible for cleaning in rest stop areas. On one occasion, she was terminated based on a domestic issue with her boyfriend and substance abuse matters; the second stint of employment ended with the Claimant quitting. The Employer had a history of leniency with the Claimant due to her personal issues. Throughout her employment, the Claimant struggled with attendance for which the Employer issued over 20 warnings for tardiness over the past year. Both parties would send argumentative texts to each other regarding her job performance and attendance issues. On one occasion and out of frustration, the Employer called her out of her name which upset the Claimant. The Claimant filed a complaint with the Iowa Civil Rights Commission on August 31, 2021, which resulted in her quitting her employment.

Her last stint of employment started September 2, 2021 wherein the Employer drew up an agreement with the Claimant that so long as she complied with the Employer's attendance policy and other work rules, she would be guaranteed \$13/hour in pay. Soon thereafter, the Claimant failed to comply, as the Employer received complaints from both employees and patrons about the Claimant. The Employer would occasionally check on the Claimant during her work day as a result of these complaints. The Claimant did not appreciate his actions and complained about the unfair way she felt he treated her. She continued working until December 25, 2021 when the Employer gave appreciation gift cards to all employees, except the Claimant who did not maintain their agreement. The Claimant quit as a result of being singled out.

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

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits: *Voluntary Quitting*. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 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...

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code §96.6(2) (amended 1998).

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Employer's version of events. The record shows the Employer and the Claimant have a long history of interaction that can sometimes be cantankerous. It appears the Employer has repeatedly tried to accommodate the Claimant's personal issues, while trying to maintain their employment relationship. His admitted calling her out of her name was, no doubt, inappropriate and wrong by all accounts, however, it appears to have been an isolated incident for which the Claimant discontinued their employment relationship at that time.

The Claimant's return to employment on September 2, 2021 shortly after her initial quit mitigates her argument that she later quit on December 25, 2021 due to detrimental and intolerable working conditions. The Claimant failed to allege with specificity what conditions were so intolerable, besides being left out of the gift card giveaway. Additionally, she has demonstrated her willingness to return to this employer several times now, which begs the question, how intolerable would a reasonable person have found the working conditions to be? The Claimant clearly had attendance issues for which the Employer seemed to tolerate. The Employer even helped her with personal issues, which she doesn't dispute. She does not dispute that the Employer rehired her under an agreement that she failed to keep. Had she received a gift card like all the other employees, would she have continued her employment? Based on this record, we find her quit was solely due to not receiving a gift card, and not the other reasons, which she testified happened in the past. For this reason, we find the Claimant has failed to satisfy her burden of proof.

**DECISION:**

The administrative law judge's decision dated June 30, 2022 is **REVERSED**. The Employment Appeal Board concludes that the Claimant voluntarily quit without good cause attributable to the Employer. Accordingly, she is denied unemployment benefits until such time she has worked in and was paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See, Iowa Code section 96.5(1)"g".

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James M. Strohman

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Myron R. Linn

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