

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

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**JASON J OLSON**  
Claimant

**CONSUMERS SUPPLY DISTRIBUTING LLC**  
Employer

**APPEAL 23A-UI-11736-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/12/23  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

Jason J. Olson, the claimant/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) December 5, 2023 (reference 01) unemployment insurance (UI) decision. IWD denied Mr. Olson REGULAR (state) UI benefits because IWD concluded he voluntarily quit on November 9, 2023 for personal reasons and the employer did not cause his quitting. On December 21, 2023, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Olson and the employer for a telephone hearing scheduled for January 5, 2024.

The undersigned administrative law judge held a telephone hearing on January 5, 2024. The administrative law judge heard Appeals 23A-UI-11736-DZ-T and 23A-UI-11737-DZ-T together and created one hearing record. Mr. Olson participated in the hearing personally. Kathy Olson, Mr. Olson's spouse, participated as a witness for Mr. Olson. The employer participated through Cecily Johnston, human resources manager. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Did Mr. Olson voluntarily quit without good cause attributable to the employer?  
Is Mr. Olson able to and available for work?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Olson began working for the employer in November 2022. He worked as a full-time forklift operator. His employment ended on November 8, 2023.

Mr. Olson was injured at work on November 1, 2023. He reported the incident to the employer. Mr. Olson then went to his doctor who told him that his foot was broken. Mr. Olson's doctor released him to return to work as long as he sat and did not put weight on his foot. Mr. Olson reported this information to the employer. The employer told Mr. Olson to go to the employer's

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<sup>1</sup> Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

doctor. Mr. Olson did so. The employer's doctor confirmed that Mr. Olson's foot was broken. The employer's doctor also released Mr. Olson to return to work as long as he sat and did not put weight on his foot.

The employer's doctor also tested Mr. Olson for drugs per the employer's policy. The employer's policy prohibits drug use, provides that an employee is subject to a drug test if the employee is injured at work, and provides that the employer will terminate the employment of an employee who tests positive for drugs. The policy is in the employer's handbook and Mr. Olson acknowledged receiving a copy of the policy. Mr. Olson returned to work and did light duty work while sitting.

On November 8, the employer's doctor sent Mr. Olson his drug test results, which showed positive for marijuana and amphetamine. Mr. Olson went to work. Later in the day, Mr. Olson called Ms. Johnston and asked if the employer had received his test results. Ms. Johnston said no. Mr. Olson stated that he had a vape pen and the doctor told him that he tested positive on the drug test. Mr. Olson asked Ms. Johnston about the employer's drug use policy. To which Ms. Johnston replied that a positive drug test would lead to the employer terminating an employee's employment, but the employer was still waiting to receive Mr. Olson's test results. The call ended.

Toward the end of the workday, Mr. Olson told his supervisor and the plant manager that since he tested the employer was going to fire him, so he didn't need to continue working. Mr. Olson left. The plant manager reported this information to Ms. Johnston. Ms. Johnston contacted Mr. Olson's supervisor and the supervisor confirmed what the plant manager had reported.

Mr. Olson reported to work the next day, November 9. Mr. Olson's supervisor told him that he quit the previous day and directed him to leave. Mr. Olson left.

The Administrative Law Judge Decision in Appeal 23A-UI-11737-DZ-T addresses Mr. Olson's eligibility for UI benefits based on his ability to and availability for work.

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

For the reasons that follow, the administrative law judge concludes Mr. Olson's separation from employment on November 8, 2023 was without good cause attributable to the employer.

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 Admin. Code r. 871-24.25 provides:

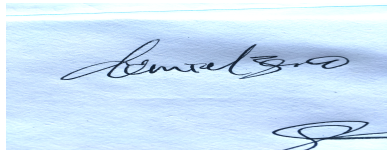
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified 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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.<sup>2</sup> A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.<sup>3</sup> “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.<sup>4</sup>

In this case, Mr. Olson quit because he concluded that the employer would terminate his employment when the employer received his positive test result. Mr. Olson did what was best for him, but his leaving was not for a good-cause reason attributable to the employer according to Iowa law. Mr. Olson is not eligible for UI benefits.

**DECISION:**

The December 5, 2023 (reference 01) UI decision is AFFIRMED. Mr. Olson voluntarily left his employment without good cause attributable to the employer. Mr. Olson is not eligible for UI benefits until he has worked in and been paid wages for insured work equal to ten times his weekly UI benefit amount, as long as no other decision denies him UI benefits.

A handwritten signature in black ink on a light blue background. The signature appears to read "Daniel Zeno" and is written in a cursive style.

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Daniel Zeno  
Administrative Law Judge

January 10, 2024  
Decision Dated and Mailed

DZ/jkb

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<sup>2</sup> Iowa Code § 96.6(2).

<sup>3</sup> *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

<sup>4</sup> *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

**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 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:

**Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://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.