

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

DANIEL T BELL
Claimant

A TO Z DRYING INC
Employer

APPEAL 23A-UI-08667-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/11/23
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Daniel T. Bell, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) September 7, 2023 (reference 01) unemployment insurance (UI) decision. IWD denied Bell REGULAR (state) UI benefits because IWD concluded he voluntarily quit on August 11, 2023 because he was dissatisfied with his work conditions and the employer did not cause his quitting. On September 13, 2023 the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Bell, Bryant Enghers, Mr. Bell's attorney, and the employer for a telephone hearing scheduled for September 26, 2023.

The undersigned administrative law judge held a telephone hearing on September 26, 2023. Mr. Bell participated in the hearing personally. Mr. Enghers represented Mr. Bell. On September 22, 2023, the employer, through its attorney, Maggie Hanson, notified the UI Appeals Bureau that the employer did not intend to contest Mr. Bell's UI claim, and the employer would not attend the hearing. The employer did not participate in the hearing. The undersigned admitted Claimant's Exhibits 1-6 as evidence.

ISSUE:

Did Mr. Bell 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. Bell began working for the employer in November 2018. He worked as a full-time process engineer manager. His employment ended on August 11, 2023.

Mr. Bell was on medical leave beginning February 20, 2023 due to a serious medical issue. Mr. Bell applied for worker's compensation benefits. In March/April 2023, Mr. Bell's doctor released him to return to work part-time as of June 7, with the restriction that he not work in or around the Mimic 2LV insecticide.² In May 2023, the employer asked Mr. Bell to sign a release so the

¹ Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

² Claimant's Exhibit 4.

employer could speak with his medical provider about his work restriction related to the insecticide.³ Mr. Bell signed the release.⁴

On June 5, the employer told Mr. Bell that when he returned to work, he would not be working in the department he had worked in before his leave due to his work restriction. Around this time, the employer asked Mr. Bell to have his medical provider complete a Request for Restrictions Clarifications form, which his medical provider completed on June 6.⁵ Mr. Bell's medical provider stated that Mr. Bell may return to work part-time as of June 7, and full-time on June 26 with the restriction that he not work in or around the Mimic 2LV insecticide.⁶ Mr. Bell returned the form to the employer through his worker's compensation attorney on June 9.⁷ Around the same time, the employer told Mr. Bell that he could not return to work until June 21.

Mr. Bell returned to work on June 21 with the same pay and with the same job title as he had before his leave. While Mr. Bell was on leave, the employer hired three other employees who took over Mr. Bell's job responsibilities. So, the employer assigned Mr. Bell little to no work. The employer moved Mr. Bell's workstation to a different area so he would not be around the Mimic 2LV insecticide. Mr. Bell felt useless, embarrassed, not liked and he felt that the employer had given up on him.

On July 31, Mr. Bell gave the employer a notice of his intention to resign on August 11.⁸ Mr. Bell explained in his resignation notice that he felt compelled to resign because the employer was not assigning work to him since he returned to work, and he felt unwanted and stuck. Mr. Bell's employment ended on June 11. Mr. Bell had no prior discipline record, and the employer had not told Mr. Bell that the employer would end his employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Mr. Bell's separation from employment 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(21) and (35) provide:

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

³ Claimant's Exhibit 3.

⁴ *Id.*

⁵ Claimant's Exhibit 4.

⁶ *Id.*

⁷ *Id.*

⁸ Claimant's Exhibit 6.

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:

(21) The claimant left because of dissatisfaction with the work environment.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Iowa Admin. Code r. 871-24.26(1), (6), and (23) provide:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

(6) Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job. In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes

other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.⁹ A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.¹⁰ "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.¹¹ In general, a substantial pay reduction of 25 to 35 percent or a similar reduction of working hours creates good cause attributable to the employer for a resignation.¹²

In this case, Mr. Bell resigned because he did not like the fact that the employer was not assigning him work. The employer continued to pay Mr. Bell his usual pay and offer him his usual work hours, even as the employer assigned him little to no work. This does not create good cause attributable to the employer for a resignation. Nor does the employer's accommodation by moving Mr. Bell to a different workstation away from the insecticide. Essentially, the employer paid Mr. Bell his usual pay to do less work as the employer attempted to accommodate his work restriction. Mr. Bell wanted something different – he wanted the employer to assign him work as they had before his medical leave. The employer didn't do that, so Mr. Bell resigned. Mr. Bell 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. Bell is not eligible for UI benefits.

DECISION:

The September 7, 2023 (reference 01) UI decision is AFFIRMED. Mr. Bell voluntarily left his employment without good cause attributable to the employer. Mr. Bell 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.



Daniel Zeno
Administrative Law Judge

September 28, 2023
Decision Dated and Mailed

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⁹ Iowa Code § 96.6(2).

¹⁰ *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

¹¹ *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

¹² *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988).

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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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
4th Floor – Lucas Building
Des Moines, Iowa 50319
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.