

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

**DAWN NEVILLS**  
Claimant

**HY-VEE INC**  
Employer

**APPEAL 23A-UI-07780-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/16/23  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Dawn Nevills, the claimant/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) August 7, 2023 (reference 01) unemployment insurance (UI) decision. The decision denied Ms. Nevills REGULAR (state) UI benefits because IWD concluded that she voluntarily quit on July 13, 2023 because she was dissatisfied with her work conditions. On August 11, 2023, the Iowa Department of Inspections, Appeals, and Licensing, UI Appeals Bureau mailed a notice of hearing to Ms. Nevills and the employer for a telephone hearing scheduled for August 25, 2023.

The undersigned administrative law judge held a telephone hearing on August 25, 2023. Ms. Nevills participated personally. The employer participated through Alyssa Christofferson, assistant manager, Steven Almonrose, human resources manager and Kelly Ray, Corporate Cost Control hearing representative. The undersigned admitted Claimant's Exhibit A and Employer's Exhibit 1 as evidence.

**ISSUE:**

Did Ms. Nevills voluntarily quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Nevills began working for the employer in September 2019. She worked as a full-time bakery department head and service manager. Her employment ended on July 13, 2023.

On Thursday, July 13, Ms. Christofferson spoke with Ms. Nevills on the phone once about flowers and twice about staffing. Ms. Nevills responded with "yeah" and "what" when Ms. Christofferson was Ms. Nevills direct supervisor. Ms. Christofferson told Ms. Nevills that this was not the correct way to respond to her supervisor. Ms. Nevills responded that this was the way she spoke with everyone. These interactions agitated Ms. Nevills.

Later that day, Ms. Christofferson asked Ms. Nevills for a password. Ms. Nevills did not respond and walked away because she was still agitated. Ms. Christofferson followed Ms. Nevills and

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

told Ms. Nevills that she could not just ignore Ms. Christofferson. Ms. Nevills stated that she was upset and did not want to talk to Ms. Christofferson. Ms. Nevills also stated that she could just leave. This was about four hours before Ms. Nevills shift was scheduled to end. Ms. Christofferson told Ms. Nevills that if Ms. Nevills left she may not have a job. Ms. Nevills gathered her things and walked away. Ms. Nevills then texted the store manager, who is Ms. Christofferson's supervisor, that she did not want to abandon her job, but she could not continue to deal with Ms. Christofferson and asked for a call back. Ms. Nevills knew that the store manager was not working that day or the following day. One minute after she sent the text, Ms. Nevills clocked out and left. Ms. Nevills did not return to work.

The following Monday, Ms. Nevills spoke with the store manager. The store manager told Ms. Nevills that they received her texts on July 13 and had looked into the matter. The store manager told Ms. Nevills employment was over because she left..

Ms. Nevills had been frustrated about the job for some time. About a month prior to July 13, the employer had moved Ms. Nevills from bakery department manager to service manager. The employer changed the hours Ms. Nevills worked from the opening shift to the closing shift. The employer did not change Ms. Nevills' pay or full-time status. Ms. Nevills was also frustrated because she did not get to take her full 30-minute break because of the amount of work she had to do.

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

For the reasons that follow, the undersigned concludes Ms. Nevills' 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(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

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

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<sup>2</sup> Iowa Code § 96.6(2).

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, Ms. Nevills quit. Ms. Nevills initiated the conversation about leaving when she told Ms. Christofferson that she would leave. Ms. Christofferson told Ms. Nevills the potential consequence of doing so, and still Ms. Nevills left. Ms. Nevills did what was best for her but her leaving was not for a good-cause reason attributable to the employer according to Iowa law. Ms. Nevills is not eligible for UI benefits.

**DECISION:**

The August 7, 2023 (reference 01) UI decision is AFFIRMED. Ms. Nevills voluntarily left her employment without good cause attributable to the employer. Ms. Nevills is not eligible for UI benefits until she has worked in and been paid wages for insured work equal to ten times her weekly UI benefit amount, as long as no other decision denies her UI benefits.



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Daniel Zeno  
Administrative Law Judge

August 29, 2023  
Decision Dated and Mailed

DZ/jkb

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<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  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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.