

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**LORI A DIRENZO**  
Claimant

**AFM LLC**  
**MIAN GROUP OF COMPANIES**  
Employer

**APPEAL NO. 23A-UI-00119-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/28/22**  
**Claimant: Appellant (2)**

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Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

On January 5, 2023, Lori Drenzo (claimant) filed a timely appeal from the December 29, 2022 (reference 04) decision that disqualified her for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion the claimant voluntarily quit on November 14, 2022 without good cause attributable to the employer. After due notice was issued, a hearing was held on January 25, 2023. Claimant participated and presented additional testimony through Steven Deitrick. Janet Herman represented the employer.

**ISSUE:**

Whether the claimant voluntary quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The employer owns the IHOP restaurant in Waterloo, Iowa. The employer employed Lori Drenzo (claimant) as the full-time General Manager from October 10, 2022 until November 15, 2022, when the claimant voluntarily quit. The claimant's quit was effective immediately. Janet Herman, District Manager, was the claimant's immediate supervisor. Ms. Herman is headquartered in Boone, Iowa. The business owner, Amber Mian, resides in another state. At the time the employer hired the claimant as General Manager, the employer knew the Waterloo restaurant was "unruly," in other words, dysfunctional and problematic in a number of respects. The employer asserts the claimant was aware the restaurant was "unruly" at the time she accepted the General Manager position. The employer scheduled an initial staff meeting to introduce the claimant to the restaurant staff as their new supervisor. The employer mishandled the introductory meeting. The employer did not make the meeting mandatory and did not impose any consequences for failure to appear. As a result, most of the restaurant staff skipped the meeting. The fumbled introduction set the tone for events to come.

On November 2, 2022, a server, Sincere, called the claimant in an upset state. The claimant was off-duty and at home at the time of the call. Sincere screamed at the claimant. When the claimant attempted to get Sincere to calm down so the claimant could understand her concern, Sincere hung up on the claimant.

On November 3, 2022, Sincere used a friend's phone and phone number to commence sending that claimant "anonymous" harassing text messages while the claimant was off-duty and at home. Sincere sent eight harassing messages over the course of about an hour and a half. The messages ridiculed the claimant and mocked the claimant's supervisory authority. The claimant was able to quickly identifying the source of the messages through a phone-number tracing software application and by observing that the number's owner, Amber Rose, was Facebook "Friends" with Sincere. The claimant promptly notified Ms. Herman about the harassing messages and forwarded the messages to Ms. Herman. Ms. Herman agreed to speak with Ms. Mian about the messages. The employer has a policy that prohibits harassment. However, the employer took the position that the harassment in question was non-work related because it occurred outside the workplace. Though the claimant shared that she believed Sincere was behind the harassing messages, the employer took the position it could not be certain. The employer conducted no meaningful investigation and took no meaningful steps to address the harassing behavior.

On November 10, 2022, the claimant was out of town during a period of approved time off, when a server, River, called the claimant in an upset state and threatened to close the restaurant during business hours due to other staff failing to appear for work and the resulting short-staffing situation. The claimant told the server she was out of town. The claimant attempted to calm the server and asked the claimant not to close the restaurant. The claimant promptly contacted Ms. Herman, who took steps to ensure the restaurant remained open.

On November 12, 2022, the claimant asked the kitchen manager, Sergio, to forward to her the kitchen work schedule so the claimant could complete her scheduling duties. The kitchen manager tore up the schedule he had prepared, which required the claimant to prepare a new schedule.

On November 13, 2022, the kitchen manager asked about the schedule the claimant had prepared and then asserted he was not going to work the scheduled hours. The claimant contacted the Ms. Herman and Ms. Mian for assistance. Ms. Herman told the claimant it was the claimant's responsibility to issue a written reprimand to the kitchen manager. Ms. Mian stated she had a migraine and would "try to get together."

On November 14, 2022, the claimant followed up with the employer about setting up a meeting to work toward resolving this issues with the kitchen manager and other concerns. No meeting was set.

On November 15, 2022, the claimant telephoned Ms. Herman to give notice she was quitting, effective immediately. The claimant stated she could no longer handle the harassment and staff behavior.

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

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The weight of the evidence in the record establishes a November 15, 2022 voluntary quit with good cause attributable to the employer, due to intolerable and detrimental working conditions. The claimant stepped into a highly dysfunctional and intolerable work environment when she unwisely accepted the General Manager job at the Waterloo IHOP. Whilst the claimant underestimated the challenge the employment would present, the employer was well aware of the problems with restaurant operations. Whatever hopes the claimant and/or the employer had at the start about the claimant reforming the restaurant, the employer doomed the employment by failing to properly manage the situation. The employer set up the claimant to fail as a supervisor when the employer fumbled the introduction meeting. The employer invited turmoil and intolerable staff behavior by failing to take meaningful steps to address the clearly work-related harassment. The employer unreasonably over-delegated to the new General Manager responsibility for addressing the kitchen manager's openly defiant, insubordinate, destructive and disruptive behavior. A reasonable person in the claimant's shoes would have read the writing on the wall, as the claimant did, and would have left the employment. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

**DECISION:**

The December 29, 2022 (reference 04) decision is REVERSED. The claimant voluntarily quit the employment on November 15, 2022 with good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.



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James E. Timberland  
Administrative Law Judge

February 02, 2023  
Decision Dated and Mailed

**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**

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>.

**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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**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.