

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

SHELBY C HARDER
Claimant

CAMP HIGH HOPES
Employer

APPEAL 23A-UI-00219-AR-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/24/22
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871—24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

On January 9, 2023, the employer filed an appeal from the December 29, 2022, (reference 04) unemployment insurance decision that allowed benefits based on the determination that claimant voluntarily quit employment with good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on January 25, 2023. Claimant, Shelby C. Harder, participated personally. Employer, Camp High Hopes, participated through testifying witness Sarah Morgan, with Dolores Guest, who observed but did not testify. Employer's Exhibits A through F were admitted. Claimant objected to Employer's Exhibit B based on relevance. That objection was overruled. The administrative law judge took official notice of the administrative record.

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 1, 2022. Claimant last worked as a full-time office manager. Claimant was separated from employment on December 7, 2022, when she quit.

On December 6, 2022, Morgan, who was claimant's direct supervisor, approached claimant in her office and began speaking with claimant about her attendance and general job performance. Morgan had been having concerns about these issues and had brought them up with claimant on at least two occasions before. The parties disagree regarding the nature of this meeting. Morgan characterized the meeting as "stern" but denied yelling or raising her voice at claimant. Claimant characterized the manner in which Morgan was speaking as "elevated" or "yelling." Claimant became upset and told Morgan that it was clear the two were not communicating well.

Claimant left the office before the end of her shift. The following day, on December 7, 2022, claimant did not call in as absent or report for work. Morgan sent her a text stating she assumed claimant quit because she had not reported for work.

There were two other occasions during claimant's employment in which claimant took issue with the manner in which Morgan spoke to her. These incidents occurred in October and November 2022. Claimant made her displeasure known to Morgan but did not make a complaint to any member of the board. Claimant knew who the members of the board were, and she knew how to contact them should she need to do so. The employer's handbook dictates how employees may make complaints or voice work-related concerns. The handbook indicates that such complaints may be made to Morgan, as the executive director, or to any member of the board. Claimant was responsible for issuing the handbook to new employees.

The administrative record indicates that claimant has received no unemployment insurance benefits since this separation. The administrative record also indicates that the employer substantially participated in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the 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 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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Claimant acknowledges that she quit employment. She left work before the end of her shift on December 6, 2022, and did not report for work on December 7, 2022. In order for claimant to demonstrate that she quit with good cause attributable to the employer, she must demonstrate that she was subjected to detrimental, unsafe, or unlawful working conditions. She has not so demonstrated here. The conduct she alleges does not rise to level of unlawful in that there is no allegation that the conduct was based on a protected basis or protected activity. The conduct also does not rise to the level of detrimental or intolerable. This is particularly true since claimant acknowledged that she never made a complaint about the conduct to any person in a supervisory position. Claimant did not give the employer notice in order to allow the employer to address her concerns prior to the time at which she resigned employment. Claimant left employment due to a personality conflict with the supervisor, which does not constitute a good-cause reason attributable to the employer under the law. Benefits are denied.

Because claimant has received no unemployment benefits since this separation, the issues of overpayment, repayment, and participation are moot.

DECISION:

The December 29, 2022, (reference 04) unemployment insurance decision is REVERSED. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The issues of overpayment, repayment, and participation are moot.



Alexis D. Rowe
Administrative Law Judge

January 30, 2023
Decision Dated and Mailed

ar/mh

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 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.