

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

**MICHAEL R GIFFORD**  
Claimant

**CASEY'S MARKETING COMPANY**  
Employer

**APPEAL 23A-UI-05725-DB**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/15/23**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the May 26, 2023 (reference 02) unemployment insurance decision that denied unemployment insurance benefits to the claimant based upon a separation from work. The parties were properly notified of the hearing. An in-person hearing was held on July 18, 2023. The claimant participated personally. The employer did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Was the claimant's separation from employment disqualifying?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed most recently for this employer beginning approximately a year and a half ago. He was employed as a full-time kitchen manager. He worked at the Mechanicsville, Iowa store location and then was transferred to the Lisbon, Iowa store location. Claimant was responsible for hiring kitchen employees; making the schedule for employees; training the employees; and creating the grocery order.

A supervisor named Sharon took over as store manager of the Lisbon, Iowa location and the claimant did not get along with her. Sharon began doing the hiring, training and scheduling of employees and claimant was only creating the grocery order. Claimant decided that he could no longer work with Sharon. On January 2, 2023, the claimant texted Sharon stating he was giving his two-week notice to resign as full-time kitchen manager. Sharon accepted the resignation via text message. Claimant worked his two-week notice period to January 17, 2023, which was his last day physically worked on the job. Claimant informed Sharon, as well as two other management personnel, that he was available to work part-time on Sunday evenings as a regular part-time worker. Sharon informed the claimant they did not have a part-time job available for him to switch to.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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. But the individual shall not be disqualified if the department finds that:

Iowa Admin. Code r. 871-24.25(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

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.

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.<sup>1</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>2</sup> Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer, or that another exception to the rule exists.<sup>3</sup> In this case, the

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<sup>1</sup> *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989).

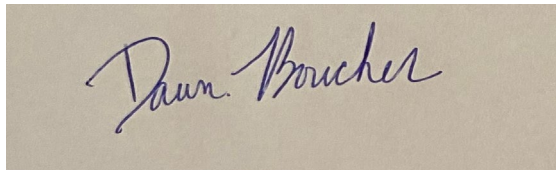
<sup>2</sup> *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

<sup>3</sup> Iowa Code § 96.6(2).

claimant texted Sharon that he was resigning from the full-time kitchen manager position. The claimant was quitting because of his personality conflict with Sharon, his supervisor. The claimant's voluntary quitting of employment with this employer was without good cause attributable to the employer and is disqualifying. Simply because the claimant desired to have a part-time job instead of a full-time job with the employer does not mean that the employer must accept the claimant's offer to work part-time. In this case, the employer did not accept the claimant's offer to work part-time, and no new employment relationship was established. Benefits are denied until the claimant requalifies.

**DECISION:**

The May 26, 2023 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to the employer. Unemployment insurance benefits are denied until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount after his separation date, and provided he is otherwise eligible.



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Dawn Boucher  
Administrative Law Judge

July 19, 2023  
Decision Dated and Mailed

db/scn

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**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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

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 file a petition for judicial review in district court.

2. If you do not file 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 [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *There may be a filing fee to file the petition in District Court.*

**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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

**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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

**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.