

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

CARDERRIUS SMITH
Claimant

APPEAL NO. 22A-UI-16421-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOHN DEERE COMPANY
Employer

**OC: 10/03/21
Claimant: Appellant (2)**

Iowa Code Section 96.5(1) & Iowa Admin. Code R. 871-24.22(2)(j) - Layoff

STATEMENT OF THE CASE:

On August 22, 2022, Carderrius Smith (claimant) filed a timely appeal from the August 17, 2022 (reference 18) decision that disqualified the claimant for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the claimant voluntarily quit on July 12, 2022 without good cause attributable to the employer. After due notice was issued, a hearing was held on September 19, 2022. Claimant participated. The employer did not comply with the hearing notice instructions to call the designated number at the time of the hearing and did not participate. Exhibit A, the online appeal, was received into evidence.

ISSUES:

Whether the claimant was laid off, was discharged for misconduct in connection with the employment, or voluntarily 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:

Carderrius Smith (claimant) began his full-time employment with John Deere Company in Waterloo in 2020 and worked as a "utility" until November 2021, when he moved to a full-time production position on the employer's main line at the Waterloo plant. The claimant's regular work hours were 10:30 p.m. to 7:00 a.m., Sunday evening through Friday morning. When the employer required overtime, the shift start time would be moved up to 7:30 p.m. Dan Nelson was the claimant's supervisor toward the end of the employment.

At the end of May 2022, the claimant commenced a "WI" medical leave of absence in connection with a non-work related illness, rhabdomyolysis. The claimant properly notified the employer to his need to go off work in connection with the medical issue. Under the employer's policies and the collective bargaining agreement, once the claimant was in leave status, the claimant was no longer obligated to give daily notice of his need to be absent from work.

Effective June 21, 2022, the claimant's doctor released the claimant to return to work without restrictions. The claimant's doctor included the medical release information on the leave of absence paperwork the doctor completed on behalf of the claimant.

Upon being released by his doctor to return to work without restrictions, the claimant promptly provided the medical release to the employer. The employer rejected the medical release. The employer told the claimant the medical release should have been submitted as a separate document, rather than as part of the leave of absence paperwork. The employer declined to allow the claimant return to work at that time and told the claimant he needed to get a new medical release from his doctor. The employer stated the new medical release had to be submitted within three days. The claimant promptly contacted his doctor. The claimant's doctor decided the medical release set forth in the leave documentation was sufficient and declined to draft a second medical release. The claimant's doctor cited the doctor's prior work relationship with John Deere Company and knowledge of John Deere protocols gained from that prior relationship when asserting the previously provided release was sufficient.

The claimant had to wait until his next scheduled appointment with the doctor before the claimant could obtain and the doctor would provide a second medical release document. The claimant then promptly provided the new medical release document to the employer. The employer again declined to allow the claimant to return to work. The employer asserted the claimant had taken too long to provide the second medical release document. The employer asserted the period during which the claimant was off work waiting to get the new medical release constituted a series of no-call/no-show absences.

From June 21, 2022 onward, the claimant had been ready, willing and able to return to work without restrictions.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule 871-24.1(113) characterizes the different types of employment separations as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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 Iowa Administrative Code rule 871-24.25.

Iowa Admin. Code r. 871-24.22(2)(j) provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

The evidence in the record establishes the employee terminated the employment effective June 21, 2022, when the employer failed to reemploy the claimant at the end of an approved leave of absence despite the claimant's presentation of a bona fide medical release that released him to return to work without restrictions. At no time did the claimant indicate an intention to voluntarily separate from the employment or take overt action to indicate such intent. The claimant's inability to surmount the unreasonable hurdle the employer imposed to his return in no manner indicated a voluntary quit. The claimant's absence from the workplace during the period on and after June 21, 2022 was wholly attributable to the employer and, as such, none of that time could be deemed an unexcused absence under the applicable law. Under Iowa Admin. Code r. 871-24.22(2)(j)(1), the employer's failure to reemploy the claimant effective June 21, 2022 was a layoff. The claimant is eligible for benefits, provided he met all other eligibility requirements. The employer's account may be charged.

DECISION:

The August 17, 2022 (reference 18) decision is REVERSED. The claimant was laid off effective June 21, 2022, when the employer failed to reemploy the claimant at the end of an approved absence. The claimant is eligible for benefits, provided the claimant is otherwise eligible. The employer's account may be charged for benefits.

A handwritten signature in black ink that reads "James E. Timberland". The signature is written in a cursive, flowing style.

James E. Timberland
Administrative Law Judge

October 7, 2022
Decision Dated and Mailed

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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
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>.

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.