

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

RYAN R WILLERS

Claimant

APPEAL 24A-UI-07924-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRAYBAR ELECTRIC COMPANY INC

Employer

OC: 08/11/24

Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Graybar Electric Company Inc, the employer/appellant,¹ appealed the Iowa Workforce Development (IWD) August 28, 2024 (reference 01) unemployment insurance (UI) decision. IWD found Mr. Willers eligible for REGULAR (state) UI benefits because IWD concluded he quit on August 9, 2024 for compelling personal reasons, he returned to the employer after the situation ended and offered to work again, but the employer did not have work available for him. On September 10, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to the employer and Mr. Willers for a telephone hearing scheduled for September 23, 2024. At the employer's request, the hearing was rescheduled.

On September 20, 2024, the DIAL, UI Appeals Bureau mailed a notice of hearing to the employer and Mr. Willers for a telephone hearing scheduled for October 4, 2024. The administrative law judge held a telephone hearing on October 4, 2024. The employer participated in the hearing through Jamie Anlauf, human resources advisor. Mr. Willers participated in the hearing personally. The administrative law judge rescheduled the hearing because the employer did not receive Mr. Willers' 18 exhibits. On October 7, 2024, the DIAL, UI Appeals Bureau mailed a notice of hearing to the employer and Mr. Willers for a telephone hearing scheduled for October 9, 2024.

The administrative law judge held a telephone hearing on October 9, 2024. The employer participated in the hearing through Jamie Anlauf, human resources advisor. Mr. Willers participated in the hearing personally. The administrative law judge admitted Department's Exhibits 1-3, Employer's Exhibits 1-3 and Claimant's Exhibits A-V as evidence.

¹ Appellant is the person or employer who appealed.

The administrative law judge concludes Mr. Willers is not eligible for REGULAR (state) UI benefits based on how his job ended with this employer, IWD overpaid him \$4,536.00 in REGULAR (state) UI benefits, he is not required to repay IWD for these benefits, and the employer's account is not relieved of charges.

ISSUES:

Did Mr. Willers voluntarily quit without good cause attributable to the employer?
Did IWD overpay Mr. Willers REGULAR (state) UI benefits?
If so, should he repay the benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Willers began working for the employer in July 2021. He worked as a full-time sales representative. His employment ended on August 9, 2024.

Mr. Willers helps care for his adult sister. Mr. Willers took time off work at various time beginning in May 2023 to do so. In July 2024, Mr. Willers asked his manager about remote work and/or leave of absence options so he could have more flexibility to care for his family. The manager told him these were not options available to him. Mr. Willers did not ask for Family Medical Leave Act (FMLA) leave because he assumed he was either not eligible or the employer would not approve his request.

Mr. Willers' manager and former called him into a meeting on Wednesday, July 31 to discuss his absences. Mr. Willers had been absent to care for his sister. He had also been absent due to court proceeding in which he was a party and because he overslept. During the meeting, Mr. Willers gave the managers a resignation notice resigning effective Friday, August 2 so he could care for his sister. The managers gave the notice back to Mr. Willers and told him they don't want to lose him as an employee, and they would see if they could find a different position for him. The managers told Mr. Willers that he could apply for FMLA leave. Mr. Willers chose not to apply because he assumed he was not eligible for FMLA leave, and he did not want unpaid leave.

On Friday, August 2 at about 2:30 p.m., Mr. Willers' former manager told him that she was trying to find a position for him and suggested that he look at the employer's internal jobs board. Mr. Willers concluded that the employer did not have a different job available to him.

On Monday, August 5, Mr. Willers gave his manager a second resignation notice resigning effective Friday, August 9. Mr. Willers' manager accepted the notice and Mr. Willers' employment ended on August 9.

IWD paid Mr. Willers \$4,536.00 in REGULAR (state) UI benefits for 8 weeks between August 11, 2024 and October 5, 2024. When IWD contacted the employer's agent for the fact-finding interview, the agent stated that they had no information to provide.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes 1) Mr. Willers' separation from employment on August 9, 2024 was without good cause attributable to the employer, 2)

IWD overpaid him \$4,536.00 in REGULAR (state) UI benefits, but 3) he is not required to repay IWD for these benefits and the employer's account is not relieved of charges.

Mr. Willers Voluntarily Quit on August 9, 2024 Without Good Cause
Attributable to the Employer, So He Is Not Eligible for REGULAR (state) UI Benefits

Iowa Code section 96.5(1)(f) 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. But the individual shall not be disqualified if the department finds that:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits

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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

In general, the employer has the burden to prove that a claimant is disqualified from receiving UI benefits.² But, the claimant has the burden of proving that a voluntary leaving was for good cause attributable to the employer.³ A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.⁴ “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.⁵

In this case, Mr. Willers quit on August 9 to care for his sister. Mr. Willers gave the employer a resignation notice and the employer accepted his notice. Mr. Willers never returned to the employer to offer to work again. Mr. Willers did what was best for him and his family, but his leaving was not for a good-cause reason attributable to the employer. Mr. Willers is not eligible for REGULAR (state) UI benefits.

IWD Overpay Mr. Willers \$4,536.00 in REGULAR (state) UI Benefits,
But He is Not Required to Repay These Benefits Back to IWD,
And the Employer’s Account is Not Relieved of Charges

Iowa Code §96.3(7) provides, in relevant part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer’s account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department’s request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers. If the department determines that an employer’s failure to respond timely or adequately was due to insufficient notification from the department, the employer’s account shall not be charged for the overpayment.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred

² Iowa Code § 96.6(2).

³ *Id.*

⁴ *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

⁵ *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

Iowa Admin. Code r. 871-24.10 provides, in relevant part:

Employer and employer representative participation in fact-finding interviews.

(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if un rebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

Since Mr. Willers is not eligible for REGULAR (state) UI benefits based on how his job ended with the employer, he is not eligible for the UI benefits IWD already sent him. IWD overpaid Mr. Willers \$4,536.00 in REGULAR (state) UI benefits for 8 weeks between August 11, 2024 and October 5, 2024.

The employer did not participate in the fact-finding interview. Since the employer did not do so, Mr. Willers is not required to repay IWD the \$4,563.00 in UI benefits he received, and the employer's account is not relieved of charges.

DECISION:

The August 28, 2024 (reference 01) UI decision is REVERSED. Mr. Willers voluntarily left his employment on August 9, 2024 without good cause attributable to the employer. Mr. Willers is not eligible for REGULAR (state) UI benefits until he has worked in and been paid wages for insured work equal to ten times his weekly UI benefit amount, as long as no other decision denies him UI benefits.

IWD overpaid Mr. Willers \$4,536.00 in REGULAR (state) UI benefits for 8 weeks between August 11, 2024 and October 5, 2024. Since the employer did not participate in the fact-finding interview, Mr. Willers is not required to repay IWD these UI benefits, and the employer's account is not relieved of charges.



Daniel Zeno
Administrative Law Judge

October 14, 2024
Decision Dated and Mailed

DZ/jkb

APPEAL RIGHTS. If you disagree with this 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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
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.