

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

TRAVIS D KRIZER
Claimant

CONSUMER SAFETY TECHNOLOGY LLC
Employer

APPEAL 24A-UI-02294-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/21/24
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
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 February 26, 2024, the employer filed an appeal from the February 16, 2024, (reference 01) unemployment insurance decision that allowed benefits based on the determination that claimant was discharged from employment without a showing of disqualifying misconduct. The parties were properly notified about the hearing. A telephone hearing was held on March 25, 2024. Claimant, Travis D. Krizer, participated. Employer, Consumer Safety Technology LLC, participated through Temporary HR Business Partner Abigail Weatherwax. Claimant's Exhibits A and B were admitted. Employer's Exhibits 1 through 3 were admitted. 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, or was the claimant discharged for disqualifying job-related misconduct?
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 May 9, 2017. Claimant last worked as a full-time compliance manager. Claimant was separated from employment on November 9, 2023, when he resigned.

Throughout approximately the last three years of claimant's employment, he had serious concerns about compliance with various states' laws and rules, and with staffing. He worked significant overtime during 2023, and frequently requested additional hires to reduce the

overtime requirements. Claimant did not feel that the employer responded meaningfully to his concerns when he expressed them. The employer finally did authorize the hire of additional staff around the time claimant's employment ended.

On November 6, 2023, claimant submitted his resignation via email to his supervisor, Amanda Sedars. He outlined his concerns regarding compliance and staffing in his resignation letter. His resignation was to be effective December 29, 2023.

On November 9, 2023, claimant had an interaction with another department in which he told the person with whom he spoke to have the department use its own resources to do the work and to quit bothering him about it. Claimant anticipated that this interaction would lead to disciplinary action because the person with whom he was speaking made it known that she took issue with claimant's conduct. Claimant messaged Sedars and said, "I'll need 5. Today will likely be my last day." Sedars took this as an immediate resignation. She notified the VP of compliance, Bree Meinburg, who emailed claimant to confirm that he had submitted notice of his immediate resignation. Claimant responded, "Yes, that is correct."

Claimant did not intend to resign on November 9, 2023. He sent the message to Sedars because he thought she would get a complaint from the other department and that he might be discharged as the result of the interaction. Claimant never got to speak directly with any of his supervisors regarding the separation issue.

The administrative record indicates that claimant filed a claim for unemployment insurance benefits with an effective date of January 21, 2024. His weekly benefit amount is \$582.00. He has filed no weekly claims and has received \$0.00 in unemployment insurance benefits to date. The employer did not participate in the fact-finding interview. It received the notice of fact finding approximately two weeks after the scheduled interview. Though the fact finder left a message at the number they called, the employer did not receive the message.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant was not discharged, but voluntarily left the employment 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:

(21) The claimant left because of dissatisfaction with the work environment.

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 asserts that he was discharged from employment before the end of his notice period. However, he sent an unclear message to Sedars, which was interpreted as a resignation. Then, when Meinburg emailed claimant to confirm, claimant did not attempt to clarify or dispute the employer's interpretation of his message. Instead, when Meinburg wrote to confirm that claimant had resigned effective immediately, he responded, "Yes, that is correct." Claimant did nothing to try to correct the issue if he did not intend to resign on November 9, 2023. The separation is a quit.

Claimant has not demonstrated that he quit the employment due to an intolerable, unsafe, detrimental, or illegal work environment, as is his burden. He had significant, and perhaps valid, concerns regarding the employer's practices. However, the work environment was not so intolerable as to cause him to resign immediately, or even with two weeks' notice. Instead, he initially indicated that his resignation was effective nearly two months after he submitted notice of his intent to resign. This indicates that the work environment was not so intolerable or detrimental since he agreed to stay on for an extended period after he gave notice. Claimant may have had good personal reasons for the resignation, but those reasons do not constitute good-cause reasons attributable to the employer. Benefits are denied.

Because the claimant has not received any unemployment insurance benefits, the issues of overpayment, repayment, and participation are moot.

DECISION:

The February 16, 2024, (reference 01) unemployment insurance decision is REVERSED. Claimant was not discharged, but voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant has not been overpaid unemployment insurance benefits, so the issues of overpayment, repayment, and participation are moot.



Alexis D. Rowe
Administrative Law Judge

March 27, 2024
Decision Dated and Mailed

ar/scn

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:

**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.