

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

**TYLEIA S HOUKE**  
Claimant

**MARION SENIOR DEVELOPMENT LLC**  
Employer

**APPEAL NO. 23A-UI-07755-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/09/23**  
**Claimant: Respondent (2)**

Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Code Section 96.3(7) - Overpayment

**STATEMENT OF THE CASE:**

On August 8, 2023, the employer filed a timely appeal from the July 28, 2023 (reference 01) decision that allowed benefits to the claimant and that held the employer's account could be charged for benefits, based on the deputy's conclusion the claimant voluntarily quit on July 10, 2023 with good cause attributable to the employer and due to detrimental working conditions. After due notice was issued, a hearing was held on August 24, 2023. Tyleia Houke (claimant) participated. Melinda Haley represented the employer and presented additional testimony through Mary McDaniel. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibits 2 and 3, the notice of claim/protest form and the notice of the fact-finding interview respectively, were received into evidence. Exhibit 1, the appeal letter was not admitted. The claimant submitted a packet of proposed exhibits on August 20, 2023, but did not serve the proposed exhibits on the employer as required by the hearing notice. The employer submitted a packet of proposed exhibits on August 21, 2023, but did not serve the packet on the claimant as required by the hearing notice. Due to the parties' disregard of due process obligations and each other's due process rights in connection with submission of the claimant's August 20, 2023 packet and the employer's August 21, 2023 packet, neither packet was received into evidence nor considered by the administrative law judge in rendering this decision.

**ISSUES:**

Whether the claimant was laid off, was discharged for misconduct in connection with the employment, or voluntary 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: Tyleia Houke (claimant) was employed by Marion Senior Development, L.L.C., doing business as Summit Pointe Senior Living Community, as a full-time Resident Assistant (RA) from October 2022 until Monday, July 10, 2023, when she voluntarily quit. On the preceding Friday, the claimant had left work early to attend to her pet. After the claimant departed, a coworker reported to the employer that the claimant planned to not report for work on July 10, 2023. The

employer needed to ensure proper staffing to address resident needs and enlisted an extra RA to work on July 10 in case the claimant did not appear.

The claimant reported for work as scheduled on July 10, 2023. The employer had the claimant's regular work available for the claimant. However, the claimant was upset that the employer had not contacted the claimant directly to discuss the concern the claimant might not report for work that day. Rather than stay and perform her assigned work, the claimant elected to walk off the job an hour into her shift. The claimant contacted Melinda Haley, Executive Director, to advise she was quitting the employment and that her quit was effective immediately. The claimant added a baseless allegation that residents were being hit. When Ms. Haley remarked that the claimant's allegation was serious, that it could involve contacting the police, and reminded the claimant that the claimant was a mandatory reporter, the claimant amended her allegation to a vague, baseless allegation that residents were being "mistreated." The employer had made no decision to terminate the employment and continued to have the claimant's regular work and work hours available at the time the claimant elected to separate from the employment.

The claimant's decision to walk off the job followed a June 27, 2023 written reprimand wherein the employer addressed the claimant's multiple violations of workplace rules during the claimant's June 22 and 23 shifts. The violations included discussion of the claimant's personal business with a resident, skipping a required 30-minute unpaid lunch break, participating in a personal cell phone call while on the clock and in the vicinity of residents, and directing abusive language to the new Activities Director who commented on the cell phone use.

The employer investigated the claimant's allegation of resident mistreatment and later contacted the claimant for that purpose. The claimant declined to participate in the investigation prompted by the claimant's off-the-cuff allegation.

The claimant established an original claim for benefits that was effective July 9, 2023 and received \$1,110.00 in benefits in total for the three weeks ending July 15, August 12 and August 19, 2023. This employer is the most recent base period employer.

On July 26, 2023, an Iowa Workforce Development Benefits Bureau deputy held a fact-finding interview that addressed the claimant's separation from the employment. Melinda Haley, Executive Director represented the employer at the fact-finding interview.

## **REASONING AND CONCLUSIONS OF LAW:**

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.

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 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

Voluntary quits based on dissatisfaction with the work environment, personality conflicts with a supervisor or coworkers, a decision to quit rather than perform work as assigned, and/or in response to a reprimand are presumed to be without good cause attributable to the employer. See Iowa Admin. Code rule 871-24.25(6), (21), (22), (27) and (28).

The weight of the evidence in the record established a July 10, 2023 voluntary quit without good cause attributable to the employer. The evidence fails to establish intolerable and/or detrimental working conditions that would prompt a reasonable person to leave the employment. The employer act of ensuring coverage in the event the claimant did not appear on July 10, 2023 was reasonable under the circumstances. The employer made the claimant's work available for the claimant when the claimant appeared. The claimant elected to quit, rather than stay and perform her regular duties. Nothing about the June 27, 2023 written reprimand indicate intolerable and/or detrimental working conditions. The employer reasonably expected the claimant to abide by reasonable work rules, including rules about breaks, maintaining professional boundaries when speaking to residents, and respectful conduct when interacting with coworkers. The evidence does not support the claimant's allegation of "retaliation." The evidence indicates instead that the claimant unreasonably viewed the employer's enforcement of reasonable policies and the employer's reasonable steps to ensure proper staffing as somehow detrimental to the claimant. They were not. The claimant had grown dissatisfied with the work environment, erroneously thought that managers and coworkers were out to get her, chafed that June 27, 2023 written reprimand, and elected to walk off the job rather than perform duties as assigned. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements.

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

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

The claimant received \$1,110.00 in benefits in total for the three weeks ending July 15, August 12 and August 19, 2023, but this decision disqualifies the claimant for those benefits. The benefits are an overpayment. Because the employer participated in the fact-finding interview, the claimant is required to repay the overpaid benefits. The employer's account is relieved of charges, including charges for overpaid benefits.

**DECISION:**

The July 28, 2023 (reference 01) decision is REVERSED. The claimant voluntarily quit the employment on July 10, 2023 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The claimant was overpaid \$1,110.00 in benefits in total for the three weeks ending July 15, August 12 and August 19, 2023. The claimant is required to repay the overpaid benefits. The employer's account is relieved of charges, including charges for overpaid benefits.



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James E. Timberland  
Administrative Law Judge

August 28, 2023  
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  
4<sup>th</sup> 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.