

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

**RON TROESTER**  
Claimant

**THE UNIVERSITY OF IOWA,**  
Employer

**DIA APPEAL NO. 23IWDUI0011**

**APPEAL 22A-UI-14132**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 5/15/22  
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 2, 2022, reference 01, unemployment insurance decision that denied benefits based upon the determination they voluntarily quit employment. The parties were properly notified about the hearing held by telephone on August 31, 2022. The claimant, Ron Troester, participated and was self-represented. The employer, the University of Iowa, did not participate.

**ISSUES**

Whether the separation was a layoff, discharge for misconduct, or voluntary quit without good cause.

Whether the claimant is able to and available to work.

**FINDINGS OF FACT:**

The claimant was employed full-time as a service center coordinator with the University of Iowa beginning on March 9, 2020, and was separated from employment on April 1, 2022.

At hearing, claimant explained that he sent an email to his direct supervisor, Shawn Potter, his human resources representative, Heidi McGlaughlin, and the senior IT director, Tracey Scott on February 6, 2022 notifying them that he was retiring from employment due to health issues. He provided eight weeks notice so he would be able to obtain retiree health benefits. His last day of work was April 1, 2022. In his email, the claimant did not specify what health issues led to his retirement.

The claimant was undergoing radiation treatment for cancer when he provided notice of his retirement. His employer was aware of the treatment. However, he testified that he was not referring to that health issue in his notice. Rather, he retired due to the environmental conditions in his workspace that he believes were contributing to his chronic sinus infections. Claimant reports he spoke to his supervisor, Mr. Potter, multiple times throughout his employment about the unsatisfactory conditions. Specifically, his workspace was located in a basement of an old building that had a history of mold problems and was very dusty. Claimant testified that in May 2020 he asked Mr. Potter to have the space cleaned, and was told there was no money to do so. He continued to talk to Mr. Potter over the next year on multiple occasions about the work conditions, and he continued to suffer from sinus infections. He reported being prescribed antibiotics for sinus infection nine times in less than two years. Appellant acknowledged that he did not put any requests for cleaning in writing, nor did he provide his employer with any documentation from his medical provider regarding his sinus problems. All of his requests were made orally to claimant's direct supervisor, Shawn Potter.

Claimant reports his sinus infections have cleared up since his retirement from the University of Iowa. He currently works a few shifts per week at a fitness center, and is seeking fulltime employment.

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

Iowa Code §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(20) 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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a claimant does not have to

specifically indicate or announce an intention to quit if her concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that he or she considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem, it then has made the cause for quitting "attributable to the employer."

A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

In this case, the claimant testified that he retired from employment due to conditions in his workspace that he believes were contributing to his chronic sinus infections. He reports speaking to his direct supervisor about the conditions multiple times. However, there is no indication that claimant informed his employer that the condition of his workspace were intolerable and were the reason he was retiring from employment. At the time of his retirement, in addition to having frequent sinus infections, the claimant was undergoing radiation treatment related to cancer. The employer was aware of the radiation treatment. Claimant gave eight weeks notice and indicated he was retiring for health reasons. No more specific information was provided. He continued to work those eight weeks and obtained retiree health benefits as a result. There is no evidence the claimant requested any reasonable accommodation (such as a change of position) in lieu of ending his employment, and was denied that request.

The claimant must show that the reason he left the employment for good cause *attributable to the employer*. In this case, the employer did not terminate the claimant's employment. The claimant voluntarily quit his job. He gave eight weeks notice, and retired with retiree health benefits. While the claimant's reasons for leaving employment are understandable and important, there simply is not adequate evidence in this record to determine good cause that is attributable to the employer according to Iowa law.

#### **DECISION:**

The June 2, 2022 (reference 01) unemployment insurance decision is affirmed as to the finding that the claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.



Emily Kimes-Schwiesow  
Administrative Law Judge

September 26, 2022

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Decision Dated and Mailed

Ron Troester, Claimant (by first class mail)  
The University of Iowa, Employer (by first class mail)  
Joni Benson (email)

**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.

**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:

**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 adquiera 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.

**Case Title:** RON TROESTER V. THE UNIVERSITY OF IOWA  
**Case Number:** 23IWDUI0011  
**Type:** Order

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Emily Kimes-Schwiesow", written in a cursive style.

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Emily Kimes-Schwiesow, ALJ