

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

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**ASHLEY L MACKSEY**  
Claimant

**ADT LLC**  
Employer

**APPEAL NO. 24A-UI-01521-B2T**

**AMENDED  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/10/23  
Claimant: Appellant (4R)**

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871 IAC r. 24.28(6) – Previously Adjudicated Issue  
Iowa Code § 96.5-1 – Voluntary Quit  
Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 5, 2024 (reference 05) which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 29, 2024. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. The judge took notice of the administrative record in this matter.

**ISSUES:**

Whether the claim was previously adjudicated.

Whether claimant quit for good cause attributable to employer?

Whether claimant is able and available for work?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer in November of 2022. Claimant was terminated in November of 2022 by employer because claimant had a restricted license that was deemed to not allow claimant to conduct her outside sales job.

This matter was adjudicated in a decision dated January 13, 2023 (ref 02) when claimant was denied unemployment benefits, and then on December 21, 2023 (ref 04) when claimant was allowed unemployment benefits as claimant was deemed to have earned 10x her WBA. (These matters were decided under claimant's December 11, 2022 original claim.) It is noted by the judge that claimant's employment with Oak Street Health, from which she read into the record \$12, 863.00 in 2023 earnings was not reflected in claimant's WAGE records, nor through a DBRO search.

When claimant filed a second consecutive year claim on December 10, 2023 claimant needed to show that she had earned 8x her weekly benefit amount since her las original claim was filed on December 11, 2022. Claimant did in fact earn in excess of 8x her weekly benefit amount as she earned \$12,863.00 in 2023.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Admin. Code r. 871-24.28(6) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(6) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final.

In this matter, the evidence has established that the claim was previously adjudicated by decisions dated January 13, 2023 (ref 02) when claimant was denied benefits, and then on December 21, 2023 (ref 04) when claimant was allowed unemployment benefits as claimant was deemed to have earned 10x her WBA. The effect of these two decisions was to allow benefits to the claimant. The bureau is without authority to rehear this matter as a decision was issued on the merits and claimant was most recently allowed benefits.

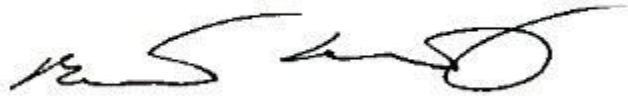
As the documentation used to find that the claimant has earned 10x her weekly benefit amount since the date of her separation with ADT and 8x her weekly benefit amount since the filing of the December 2022 original claim does not appear in IWD wage records, this matter will be remanded to the I&R bureau of IWD for further investigation into this matter.

**DECISION:**

The decision of the representative dated February 5, 2024 (reference 05) is amended in favor of the claimant as a December 21, 2023 (ref 04) decision previously determined claimant was eligible for benefits as per this employer as she had earned 10x her weekly benefit amount subsequent to the job separation with ADT and 8x her weekly benefit amount since filing the 2022 original claim. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

**REMAND**

As the documentation used to find that the claimant has earned 10x her weekly benefit amount since the date of her separation with ADT and 8x her weekly benefit amount since the filing of her December 2022 original claim does not appear in IWD records, this matter will be remanded to the I&R bureau of IWD for further investigation into this matter.



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**Blair Bennett** | Administrative Law Judge II  
Iowa Department of Inspections & Appeals

March 11, 2024  
Decision Dated and Mailed

BAB/jkb

**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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

**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 file a petition for judicial review in district court.

2. If you do not file 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 [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *There may be a filing fee to file the petition in District Court.*

**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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

**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.