

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

JONATHAN C GUNDERSEN
Claimant

APPEAL 24A-UI-04638-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**GREGG YOUNG CHEVROLET OF
NORWALK**
Employer

**OC: 04/21/24
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jonathan C. Gundersen, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) May 9, 2024 (reference 01) unemployment insurance (UI) decision. IWD denied Mr. Gundersen REGULAR (state) UI benefits because IWD concluded he voluntarily quit on April 17, 2024 and he did not give IWD evidence that he had good cause to quit. On May 16, 2-2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Gundersen and the employer for a telephone hearing scheduled for May 31, 2024.

The administrative law judge held a telephone hearing on May 31, 2024. Mr. Gundersen participated in the hearing personally. The employer participated in the hearing through Gary Burton, general manager, Jessica Minardi, director of human resources, and Rene Gonzalez, hearing representative from UC Advantage. The administrative law judge admitted Department's Exhibit 1 and Claimant's Exhibits A-B as evidence.

The administrative law judge concludes Mr. Gundersen is not eligible for UI benefits because he quit without good cause attributable to the employer.

ISSUE:

Did Mr. Gundersen voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Gundersen began working for the employer in July 2019. He worked as a full-time special finance manager. His employment ended on April 18, 2024.

Mr. Gundersen was unhappy in his job for some time, and he told the employer so several times. In August 2023, Mr. Gundersen received a job offer from a different employer. Mr. Burton heard about the job offer and talked with Mr. Gundersen. Mr. Gundersen expressed an

¹ Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

interest in working as a sales manager. Mr. Burton and Mr. Gundersen agreed that Mr. Gundersen would train another employee to do Mr. Gundersen job. Mr. Burton told Mr. Gundersen that the employer would work with him to get him into a sales manager position when one was available. Mr. Gundersen understood Mr. Burton to be saying that he would be promoted to sales manager when the next position became open.

On Wednesday, April 10, Mr. Burton met with his team, including Mr. Gundersen, because a sale manager position became open. Mr. Burton told the team that the employer would interview people interested in the position. After the meeting, Mr. Gundersen did not express interest in the job or apply for the job.

Mr. Burton heard rumors that Mr. Gundersen would be upset if he did not get the sales manager job. So, on Saturday, April 13, Mr. Burton met with Mr. Gundersen and asked why he didn't apply for the job. Mr. Gundersen stated that he was next in line for a sales manager position, he deserved the job, and he didn't need to apply for the job. Mr. Burton responded that the employer was considering Mr. Gundersen for the position, but Mr. Gundersen's thought process about the job was selfish. Mr. Burton was scheduled to be on vacation the following week and he suggested that Mr. Gundersen show leadership collegiality while Mr. Burton was gone. Mr. Gundersen felt insulted that Mr. Burton wanted him to prove himself since he had worked for almost five years, and he had previously worked for the employer for seven years.

On Wednesday, April 17, Mr. Gundersen told Mr. Burton that he was going to take time off to figure out if he wanted to continue working for the employer. Mr. Burton responded that Mr. Gundersen should put his head down and grind it out. Mr. Gundersen felt that Mr. Burton didn't care about him; he just wanted Mr. Gundersen to get back to work. The next day, Mr. Gundersen texted Mr. Burton that he him continuing the work for the employer would not work out, and that he needed to do what was best for himself, his family, and his mental health.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Gundersen's separation from employment on April 18, 2024 was 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(37) 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:

(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. Gundersen left his employment because he was dissatisfied with his job, and he felt insulted that the employer wanted him to prove himself for the sales manager job. Mr. Gundersen did what was best for him, but his leaving was not for a good-cause reason attributable to the employer. So, Mr. Gundersen is not eligible for UI benefits.

DECISION:

The May 9, 2024 (reference 01) UI decision is AFFIRMED. Mr. Gundersen voluntarily left his employment on April 18, 2024 without good cause attributable to the employer. Mr. Gundersen is not eligible for 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.



Daniel Zeno
Administrative Law Judge

June 4, 2024
Decision Dated and Mailed

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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).

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 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.