

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

**HUSEIN A EL-ZEIN**  
Claimant

**CENTRAL STATES ROOFING CO**  
Employer

**APPEAL NO. 23A-UI-01286-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/27/22  
Claimant: Appellant (4R)**

Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Code Section 96.5(1)(g) - Requalification

**STATEMENT OF THE CASE:**

On February 8, 2023, Husein El-Zein (claimant) filed a timely appeal from the February 1, 2023 (reference 01) decision that disqualified him for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion the claimant voluntarily quit on August 17, 2022 without good cause attributable to the employer. After due notice was issued, a hearing was held on February 22, 2023. Claimant participated. Jordan Boock, Office Manager, represented the employer. Exhibits A, B and C were received into evidence. The administrative law judge took official notice of the following Iowa Workforce Development administrative records: DBRO, KCCO and WAGEA.

**ISSUES:**

Whether the claimant voluntary quit without good cause attributable to the employer.  
Whether the claimant requalified for benefits by earning 10 times his weekly benefit amount subsequent to the August 2022 separation.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Husein El-Zein (claimant) was employed by Central States Roofing Company as a full-time laborer/roofer from May 31, 2022 until August 17, 2022, when he voluntarily quit. The employer is in Ames. The claimant resided in Ames during the period of the employment. The claimant voluntarily quit the employment for the sole purpose of relocating to North Liberty. The claimant moved to North Liberty on August 20, 2022. At the time the claimant left the Central States employment, that employer continued to have full-time work available for the claimant.

Within a couple weeks of leaving the Central States employment, the claimant commenced new full-time employment as a concrete laborer with Cramer and Associates. The claimant performed the work in the Coralville area. The claimant worked for Cramer and Associates for two or three weeks and earned wages totaling \$1,668.45, as indicated in his final paystub and

on the W-2 tax form the claimant received from the employer. Iowa Workforce Development quarterly wage records do not include a quarterly wage report from Cramer and Associates. The claimant concluded his work for Cramer and Associates in September 2022.

On October 2, 2022, the claimant began new full-time employment as a highway maintenance concrete laborer with Advanced Traffic Control. The claimant last performed work for Advanced Traffic Control on December 3, 2022. The claimant's regular wage, pursuant to the payroll record provided by the claimant, varied between \$19.25 and \$20.05 an hour. The claimant advises the hourly wage was about \$9.00 higher for federal projects and that the claimant regularly worked substantial overtime hours at 1.5 times the regular hourly pay rate. The claimant last performed work for Advanced Traffic Control on December 3, 2022. The claimant's total gross wages for the employment, pursuant to the paystub dated December 9, 2022, totaled \$11,471.78. That same paystub indicates \$692.15 in wages earned during the week that ended December 3, 2022 and paid on December 9, 2022. The total gross wages figure divided by the nine weeks of employment yields \$1,274.64 in average gross weekly earnings. Advanced Traffic Control made a quarterly wage report to Iowa Workforce Development for the fourth quarter of 2022 in which the employer reported paying \$11,742.00 to the claimant. The claimant received a W-2 tax form that reflects \$11,742.82 paid during the 2022 calendar year.

The claimant established an original claim for unemployment insurance benefits that was effective November 27, 2022. Iowa Workforce Development set the weekly benefit amount at \$330.00. The claimant did not commence making weekly claims until after he reopened the claim effective January 1, 2023. Central States Roofing Company appears in the IWD records as the sole base period employer.

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

Iowa Code section 96.5(1)g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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 Iowa Admin. Code r. 871-24.25.

When a claimant voluntarily quits employment to relocate to a new locality, the quit is presumed to be without good cause attributable to the employer. See Iowa Admin. Code rule 871-24.25(2).

Iowa Administrative Code rule 871-24.28(1) and (2) provides as follows:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

24.28(1) The claimant shall be eligible for benefits even though having voluntarily left employment, if subsequent to leaving such employment, the claimant worked in (except in back pay awards) and was paid wages for insured work equal to ten times the claimant's weekly benefit amount.

24.28(2) The claimant shall be eligible for benefits even though having been previously disqualified from benefits due to voluntary quit, if subsequent to the disqualification, the claimant worked in (except in back pay awards) and was paid wages for insured work equal to ten times the claimant's weekly benefit amount

The evidence in the record establishes an August 17, 2022 voluntary quit without good cause attributable to Central States Roofing Company. The sole basis for the quit was the claimant's decision to relocate from Ames to North Liberty. Because the quit was without good cause attributable to the employer, Central States Roofing Company's account shall not be charged for benefits. Effective August 17, 2022, the claimant was disqualified for unemployment insurance benefits until he had worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant was required to meet all other eligibility requirements. The claimant met the 10 times weekly benefit amount earnings requirement subsequent to the August 2022 separation from Central States Roofing and prior to establishing the November 27, 2022 original claim for unemployment insurance benefits. Effective November 27, 2022, the claimant was eligible for benefits, provided he met all other eligibility requirements. Benefits relating to wage credits earned with Central States Roofing shall be charged to the unemployment compensation fund.

**DECISION:**

The February 1, 2023 (reference 01) decision is MODIFIED in favor of the claimant/appellant as follows. The claimant voluntarily quit the Central States Roofing Company employment on August 17, 2022 without good cause attributable to that employer. Central States Roofing Company's account shall not be charged for benefits. Effective August 17, 2022, the claimant was disqualified for unemployment insurance benefits until he had worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant was required to meet all other eligibility requirements. The claimant met the 10 times weekly benefit amount earnings requirement subsequent to the August 2022 separation from Central States Roofing and prior to establishing the November 27, 2022 original claim. Effective November 27, 2022, the claimant was eligible for benefits, provided he met all other eligibility requirements. Benefits relating to wage credits earned with Central States Roofing shall be charged to the unemployment compensation fund.

**REMAND:**

This matter is REMANDED to Iowa Workforce Development Benefits Bureau for investigation and determination of whether \$1,668.45 in wages earned with employer Cramer and Associates should be added to the claimant's wage history record (WAGEA) for the third quarter of 2022.



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James E. Timberland  
Administrative Law Judge

February 24, 2023  
Decision Dated and Mailed

r/s

**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.