

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

GREGORY W WATSON

Claimant

APPEAL NO. 23A-UI-07819-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BECKSTROM CONSTRUCTION INC

Employer

OC: 04/16/23

Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

On August 11, 2023, Gregory Watson (claimant) filed a timely appeal from the August 7, 2023 (reference 06) decision that disqualified the claimant 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 June 20, 2023 without good cause attributable to the employer. After due notice was issued, a hearing was held on August 28, 2023. Claimant participated. The employer did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. The employer was aware of the hearing, as indicated by the employer's submission of proposed exhibits. Exhibit A, the claimant's handwritten appeal form and handwritten appeal letter, were received into evidence. The employer's proposed exhibits were not received into evidence in light of the employer's non-appearance.

ISSUE:

Whether the claimant 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:

Gregory Watson was employed by Beckstrom Construction, Inc. as a full-time mechanic. The employment began on or about Wednesday, June 15, 2023 and ended on Monday, June 19, 2023, when he voluntarily quit. Gerald Beckstrom, the business owner, hired the claimant and was the claimant's supervisor. The claimant's designated workdays were Monday through Friday. The claimant regularly worked longer than an eight-hour workday. The claimant understood that he was supposed to get a half-hour lunch and two 10-minute breaks during his workday. The claimant did not take a lunch break and found it difficult to take a 10-minute break due to the number of projects assigned and due to Mr. Beckstrom seeking out the claimant when the claimant was about to take a break. The claimant's wage was \$30.00 an hour.

On Sunday, June 18, 2023, the claimant went to the workplace to set up a project he needed to start on Monday morning. While the claimant was at the workplace, the claimant used the employer's wash bay to wash his personal vehicle.

On Monday, June 19, 2023, the claimant saw that the employer had removed an hour from his time report for Sunday, June 18, 2023.

On Monday, June 19, 2023, the claimant observed the employer had removed time from his time report for a daily lunch break, even though the claimant had not taken a lunch break.

On Monday, June 19, 2023, the claimant spoke with Christina Beckstrom, the owner's spouse, who told the claimant he would need to direct his concerns to Mr. Beckstrom. The claimant acknowledges Mr. Beckstrom was likely busy with his construction crew that day. When the claimant did not receive an immediate response from Mr. Beckstrom, the claimant concluded he could not trust the employer and that he would not be fairly compensated for all the work performed for the employer. The claimant elected to quit the employment at that time.

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.

In considering an understanding or belief formed, or a conclusion drawn, by an employer or claimant, the administrative law judge considers what a reasonable person would have concluded 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).

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).

When a claimant voluntarily quits employment due to dissatisfaction with the work environment or due to dissatisfaction with the wages, but knew the wage rate when hired, the quit is presumed to be without good cause attributable to the employer. See Iowa Admin. Code r. 871-24.25(13) and (21).

The evidence in the record established a voluntary quit without good cause attributable to the employer. The claimant was a brand-new employee. The claimant had concerns about his pay but left before giving the employer a reasonable opportunity to address his concerns. The claimant knew he was supposed to get a lunch break and additional breaks in the course of the

day. The employer may not have been aware the claimant felt he could not take a lunch break or that the claimant felt he was not getting his additional breaks. The evidence does not indicate the employer told the claimant he could not take the breaks. It is a standard employer practice to offer a 30-minute or hour-long unpaid lunch break and to incorporate that unpaid break into payroll practices. The claimant used part of his time at the workplace on Sunday, June 18, 2023 for personal, nonwork-related business. A reasonable person would not expect to be compensated for time spent engaged in personal business. The weight of the evidence fails to establish intolerable and/or detrimental working conditions that would have prompted a reasonable person to leave the employment. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The August 7, 2023 (reference 06) decision is AFFIRMED. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.



James E. Timberland
Administrative Law Judge

August 31, 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
4th 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.