

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

NEAL LAMBERT
Claimant

**MEDICAL ONCOLOGY-HEMATOLOGY
ASSCS**
Employer

APPEAL 23A-UI-10204-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/01/23
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Neal Lambert, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) October 23, 2023 (reference 01) unemployment insurance (UI) decision. IWD denied Mr. Lambert REGULAR (state) UI benefits because IWD concluded he voluntarily quit on September 21, 2023 and he did not give IWD evidence showing that he had good cause for quitting. On October 31, 2023 the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Lambert and the employer for a telephone hearing scheduled for November 15, 2023.

The undersigned administrative law judge held a telephone hearing on November 15, 2023. Mr. Lambert participated in the hearing personally. The employer participated in the hearing through Heather Hughes, chief human resources officer. The undersigned admitted Claimant's Exhibit A as evidence.

ISSUE:

Did Mr. Lambert 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. Lambert began working for the employer in September 2016. He worked as a full-time medicine lab tech II. His employment ended on September 21, 2023.

Mr. Lambert and the employer settled a legal dispute by agreeing to a settlement. The employer offered to pay Mr. Lambert \$5,000.00 for lost wages and \$21,794.44 for emotional distress but only if Mr. Lambert agreed to resign. Mr. Lambert agreed and his employment ended on September 21.

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

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Mr. Lambert quit in lieu of discharge, and the employer has not established disqualifying, job-related misconduct.

Iowa UI law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer, or who are discharged for work-connected misconduct.² Claimants remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

Iowa Admin. Code r. 871-24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship.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

In this case, Mr. Lambert did not express an intent to terminate the employment relationship. Where there is no expressed intention or act to sever the relationship, the case must be analyzed as a discharge from employment.⁵ In analyzing quits in lieu of discharge, the undersigned considers whether the evidence establishes misconduct that would disqualify the claimant for UI benefits.

Iowa Code section 96.5(2)(a) and (d) provide:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

d. For the purposes of this subsection, "misconduct" means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of such the employee's contract of employment. Misconduct is limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of

² . Iowa Code §§ 96.5(1) and 96.5(2)a.

³ *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).

⁴ *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

⁵ *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Misconduct by an individual includes but is not limited to all of the following:

...

(11) Failure to maintain any license, registration, or certification that is reasonably required by the employer or by law, or that is a functional requirement to perform the individual's regular job duties, unless the failure is not within the control of the individual.

The employer has the burden of proof in establishing disqualifying job misconduct.⁶ The issue is not whether the employer made a correct decision in separating the claimant from employment, but whether the claimant is entitled to unemployment insurance benefits.⁷ Misconduct must be "substantial" to warrant a denial of job insurance benefits.⁸

In this case, the employer has not established disqualifying, job-related misconduct on the part of Mr. Lambert. The employer admits that Mr. Lambert's job ended because the employer asked him to resign in exchange for payment from the employer. Since the employer has not established disqualifying, job-related misconduct, Mr. Lambert is eligible for UI benefits.

DECISION:

The October 23, 2023 (reference 01) UI decision is REVERSED. Mr. Lambert quit in lieu of discharge, and the employer has not established disqualifying, job-related misconduct. Mr. Lambert is eligible for UI benefits, as long as no other decision denies him UI benefits.



Daniel Zeno
Administrative Law Judge

November 20, 2023
Decision Dated and Mailed

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⁶ *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

⁷ *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

⁸ *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

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
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:

**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.