

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

SHANNEA D WELLS YOUNG
Claimant

APPEAL 23A-UI-07549-DS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESLEYLIFE
Employer

**OC: 07/09/23
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On August 2, 2023, the claimant filed an appeal from the unemployment insurance decision dated July 31, 2023, (Reference 01) that denied unemployment insurance benefits. Notice of hearing was mailed to the parties' last known addresses of record for a telephone hearing to be held at 9:00 a.m. on August 18, 2023. The claimant participated personally. The employer participated through Stephanie Reider, Equifax Hearing Representative, Cindy Severson, Human Resources, Brittany Richard, Director of Health Services, and Deanna Kaut Bray, Director of Assisted Living. Employer's Exhibits 1-3 were admitted to the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Did claimant voluntarily quit the employment without good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge finds that:

The claimant worked as an Assisted Living Medication Manager for this employer from May 4, 2022, until July 6, 2023, when she quit the employment. At the time of the separation, the claimant reported to Brittany Richard and Deanna Kaut Bray. The employer has a policy requiring that employees wear closed-toe shoes when working with residents. The claimant signed an acknowledgment of this policy within the employer's Team Member Handbook on April 29, 2022. (Employer's Exhibit 3) The claimant had worn open-toe footwear to work on previous occasions and had been addressed by her supervisor regarding this. On July 6, 2023, the claimant joined a staff meeting late and was observed to be wearing open-toed sandals. Brittany Richard addressed this with the claimant and told her she would need to go change her shoes. Another employee was also wearing open-toed shoes and went to change them. The claimant instead advised her supervisor that if she had to leave to change her shoes, she would not come back to work. She then handed her work keys to another employee and walked out of the meeting. The claimant then went to Human Resources and advised Cindy Severson "I'm done" and "I quit." The claimant also turned in the mobile device she used in the course of her job. The claimant walked out of the workplace at that time, less than an hour into her shift. The next day, the employer discovered that despite quitting, the claimant had returned to the workplace and worked the last three hours

of the shift the night before. Severson called the claimant to discuss this, and the claimant acknowledged that she had quit but returned to work those last three hours just to help a co-worker. Severson arranged to meet with the claimant on July 12, 2022, to discuss the situation further, but the claimant did not appear for that meeting. Rather, the claimant filed this claim for unemployment insurance benefits that week. The claimant had not asked for any accommodations or changes to her job. Prior to this incident, her job was not in jeopardy and continuing work was available had she not quit the employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer. Benefits are denied.

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.

Iowa Admin. Code r. 871-24.25(4) 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 claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007).

The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The claimant abandoned the job because she did not agree with the employer's dress code policy and did not like being corrected regarding that policy. The claimant advised the employer verbally that she quit and walked off the job near the beginning of her shift. The claimant has not shown a good cause reason for the quit. Benefits are denied.

DECISION:

The July 31, 2023, (Reference 01) unemployment insurance decision allowing benefits is **AFFIRMED**. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.



David J. Steen
Administrative Law Judge
Iowa Department of Inspections, Appeals and Licensing
Administrative Hearings Division - UI Appeals Bureau

August 21, 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. *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. *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:

**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. *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. *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.