

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

ERIKA G SCHUMAN
Claimant

APPEAL 24A-UI-07305-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STANDARD DISTRIBUTION COMPANY
Employer

**OC: 07/21/24
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Erika G. Schuman, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) August 12, 2024 (reference 01) unemployment insurance (UI) decision. IWD denied Ms. Schuman REGULAR (state) UI benefits because IWD concluded she voluntarily quit on July 25, 2024 because she was dissatisfied with her work conditions, and the employer did not cause her quitting. On August 16, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Ms. Schuman and the employer for a telephone hearing scheduled for September 4, 2024.

The administrative law judge held a telephone hearing on September 4, 2024. Ms. Schuman participated in the hearing personally. The employer participated in the hearing through Katy Harbaugh, director of human resources. The administrative law judge admitted Department's Exhibit 1 and Claimant's Exhibits A-F as evidence.

The administrative law judge concludes Ms. Schuman is eligible for REGULAR (state) UI benefits based on how her job ended with this employer.

ISSUE:

Did Ms. Schuman voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Schuman began working for the employer in April 2022. She worked as a full-time manager. Her employment ended on July 25, 2024.

Ms. Schuman's manager called her names like "dumbass" and "jackass" almost daily. The manager also yelled at Ms. Schuman when she did things wrong, scratched their genitals in front of all employees, and made a racist joke about hanging in front of a Black employee and Ms. Schuman. Ms. Schuman reported her manager's name calling, yelling, and genital

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

scratching to her two-up manager. Nothing changed. Ms. Schuman did not report the manager's racist joke to the employer because she felt that the employer would not take any action.

Ms. Schuman has a medical condition that makes her urinate frequently. Ms. Schuman was the only female employee at her work site. Multiple other employees mocked Ms. Schuman's toilet use saying things like "There she is again; going the bathroom." Ms. Schuman reported this to her manager who told her to not worry about it.

On July 25, Ms. Schuman went to the office and asked for directions for the day because she was injured on the job about two weeks prior and needed accommodations. The office staff told Ms. Schuman that she had an attitude, to which Ms. Schuman responded that she did not; she was in pain. The office staff then became stern with Ms. Schuman. This was the last straw for Ms. Schuman. She told the office staff she quit. A bit later that day, she emailed Ms. Harbaugh a resignation notice quitting.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Schuman's separation from employment on July 25, 2024 was with 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 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.

Iowa Admin. Code r. 871-24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

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

² Iowa Code § 96.6(2).

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

Generally, an employee is required to give notice of an intent to quit to give the employer an opportunity to fix working conditions.⁶ In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. However, the requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. The Iowa Supreme Court concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions.⁷

So, Ms. Schman was not required to give the employer notice about intolerable or detrimental working conditions before she quit. But she must prove that her working conditions were intolerable, detrimental, or unsafe.

It is reasonable to the average person that Ms. Schuman should not have to work in an environment where employees make fun of her bathroom use, her manager makes a racist joke, and scratches their genitals in front of Ms. Schuman, and the employer takes no action when she reports these issues. Ms. Schuman’s job ended when she quit because of her working conditions, and Ms. Schuman has established that her working conditions were intolerable and detrimental. Ms. Schuman’s quit is attributable to the employer and she is eligible for UI benefits.

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).

⁶ *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996).

⁷ *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

DECISION:

The August 12, 2024 (reference 01) UI decision is REVERSED. Ms. Schuman voluntarily left her employment on July 25, 2024 with good cause attributable to the employer. Ms. Schuman is eligible for REGULAR (state) UI benefits, as long as no other decision denies her benefits.



Daniel Zeno
Administrative Law Judge

September 10, 2024
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:

**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.