

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

**REIDAR M ZEPEDA**  
Claimant

**CTI READY MIX, LLC**  
Employer

**APPEAL 24A-UI-01363-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/24/23  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.6(2) – Timely Appeal

**STATEMENT OF THE CASE:**

Reidar M. Zepeda, the claimant/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) January 22, 2024, (reference 01) unemployment insurance (UI) decision. IWD denied Mr. Zepeda REGULAR (state) UI benefits because IWD concluded that he voluntarily quit on August 10, 2023 for personal reasons, and the employer did not cause his quitting. On February 9, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Zepeda and the employer for a telephone hearing scheduled for February 26, 2024.

The administrative law judge held a telephone hearing on February 26, 2024. Mr. Zepeda participated in the hearing personally. The employer participated in the hearing through Latisia Campos, human resources specialist. The administrative law judge admitted Claimant's Exhibits A-B as evidence.

**ISSUES:**

Did Mr. Zepeda appeal on time?

Did Mr. Zepeda voluntarily quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: IWD mailed the January 22, 2024 (reference 01) UI decision to Mr. Zepeda at his correct address. The UI decision states that it becomes final unless an appeal is postmarked or received by the IWD Appeals Section by Thursday, February 1, 2024. Mr. Zepeda received the decision in the mail on Friday, February 2, 2024. Mr. Zepeda appealed online on Monday, February 5, 2024. The DIAL UI Appeals Bureau received the appeal the same day.

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<sup>1</sup> Claimant is the person who filed for UI benefits. Appellant is the person or employer who filed the appeal.

The administrative law judge further finds: Mr. Zepeda began working for the employer in February 2019. He worked as a full-time ready-mix driver. His employment ended on August 10, 2023.

On March 22, 2023, Iowa Governor Kim Reynolds signed Senate File 538 into law. The law banned health care professionals in Iowa from providing “gender transition procedures” for people under the age of 18. The law went into effect immediately.

Mr. Zepeda and his family concluded that they had to leave Iowa to access necessary medical care for their child, which was prohibited in Iowa per Senate File 538. In about May 2023, Mr. Zepeda told the employer that he and his family planned to move from Iowa for personal reasons as soon as they could sell their house. The employer accepted Mr. Zepeda’s decision and asked him for a more definite end date. Mr. Zepeda sold his house, gave the employer a definite end date, and his employment ended with the employer on August 10, 2023. At this time, Mr. Zepeda had not yet found a new job.

Mr. Zepeda started a new job in September 2023. As of December 2023, Mr. Zepeda’s new employer offered him less hours due to the winter weather. Mr. Zepeda applied for UI benefits effective December 24, 2023.

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

For the reasons that follow, the administrative law judge concludes Mr. Zepeda appealed the January 22, 2024, (reference 01) UI decision on time, but his separation from employment on August 10 2023 was without good cause attributable to the employer so he is not eligible for UI benefits.

##### Mr. Zepeda Appealed On Time

Iowa Code § 96.6(2) provides, in relevant part: “[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant’s last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.”

Iowa Admin. Code r. 871-24.35(1) provides:

2. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:
  - (2) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.
    - (b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed.<sup>2</sup> Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid.<sup>3</sup>

Mr. Zepeda received the January 22, 2024 (reference 01) UI decision after the appeal deadline and, therefore, could not have appealed by the deadline. The notice provision of the decision was invalid. Mr. Zepeda received the decision in the mail on a Friday and appealed the following Monday. Mr. Zepeda appealed on time.

Mr. Zepeda's Separation from Employment with This Employer Was Not For Good Cause  
Attributable To the Employer. So He Is Not Eligible For UI Benefits

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(2) and (37) provide:

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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

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<sup>2</sup> *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979).

<sup>3</sup> *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Iowa Admin. Code r. 871-24.26(8) 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:

(8) The claimant left for the necessary and sole purpose of taking care of a member of the claimant's immediate family who was ill or injured, and after that member of the claimant's family was sufficiently recovered, the claimant immediately returned and offered to perform services to the employer, but no work was available. Immediate family is defined as a collective body of persons who live under one roof and under one head or management, or a son or daughter, stepson, stepdaughter, father, mother, father-in-law, mother-in-law. Members of the immediate family must be related by blood or by marriage

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.<sup>4</sup> A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.<sup>5</sup> "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.<sup>6</sup>

In this case, Mr. Zepeda left his job with this employer and moved from Iowa to access necessary medical care for his child. Mr. Zepeda's move is permanent. He has not returned and offered to work for the employer again.

Mr. Zepeda, understandably, did what was best for him and his family. Caring for one's child, including providing necessary medical care, is at the core of what it means to be a parent. Mr. Zepeda did what he needed to do to care for his child. But his leaving was not for a good-cause reason attributable to the employer, according to Iowa law. So, Mr. Zepeda is not eligible for UI benefits.

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<sup>4</sup> Iowa Code § 96.6(2).

<sup>5</sup> *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

<sup>6</sup> *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

**DECISION:**

Mr. Zepeda appealed the January 22, 2024 (reference 01) UI decision on time. The January 22, 2024 (reference 01) UI decision is AFFIRMED. Mr. Zepeda voluntarily left his employment without good cause attributable to the employer. Mr. Zepeda is not eligible for UI benefits until he has worked in and been paid wages for insured work equal to ten times his weekly UI benefit amount, as long as no other decision denies him UI benefits.



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Daniel Zeno  
Administrative Law Judge

February 29, 2024  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with this 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](http://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 adquiriera 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.