

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

LEWANNE C PARIS
Claimant

DOLGENCORP LLC
Employer

APPEAL 24A-UI-07990-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/11/24
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Lewanne C. Paris, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) September 5, 2024 (reference 02) unemployment insurance (UI) decision. IWD denied Ms. Paris REGULAR (state) UI benefits because IWD concluded she voluntarily quit on August 17, 2024 for personal reasons and the employer did not cause her quitting. On September 11, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Ms. Paris and the employer for a telephone hearing scheduled for September 25, 2024.

The administrative law judge held a telephone hearing on September 25, 2024. Ms. Paris participated in the hearing personally. Shayla Nemic, attorney, represented Ms. Paris. The employer participated in the hearing through Tammy Emkes, store manager, and Tina Peterson, district manager. The administrative law judge admitted Department's Exhibit 1 and Claimant's Exhibit A as evidence.

The administrative law judge concludes Ms. Paris is not eligible for REGULAR (state) UI benefits based on how her job ended with this employer.

ISSUE:

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

FINDINGS OF FACT:

The decision in this case rests, in large part, on the credibility of the witnesses. 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.² The administrative law judge may believe all, part or none of any witness's testimony.³ In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and

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

² *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007).

³ *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996).

experience.⁴ In determining the facts, and deciding what testimony to believe, the administrative law judge may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's conduct, age, intelligence, memory and knowledge of the facts; the witness's interest in the trial, and the witness's motive, candor, bias and prejudice.⁵

The following findings of fact show how the administrative law judge has resolved the disputed factual issues in this case. The administrative law judge assessed the credibility of the witnesses, considered the applicable factors listed above, and used his own common sense and experience.

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Paris began working for the employer on, or about, September 27, 2023. She worked as a full-time team lead. Her employment ended on October 9, 2023.

Ms. Paris participated in training for few hours on Friday, September 29 and left early. Ms. Paris returned to work Monday, October 2 and worked a few hours. Ms. Paris left early due to a medical issue.

The employer scheduled Ms. Paris to work on October 4-5 and October 9-13. The employer posted a paper copy of the schedule, put the schedule in its mobile application (app) and told Ms. Paris about both. Ms. Paris did not attend work or call-in for any of these shifts.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Paris' separation from employment on October 9, 2023 was without 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(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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

⁴ *Id.*

⁵ *Id.*

In general, the employer has the burden to prove that a claimant is disqualified from receiving UI benefits.⁶ But, the claimant has the burden of proving that a voluntary leaving was for good cause attributable to the employer.⁷ A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention.⁸ “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.⁹

In this case, Ms. Paris was a No-Call/No-Show for more than three consecutive shifts. Ms. Paris did what she needed to do, but her leaving was not for a good-cause reason attributable to the employer. Ms. Paris is not eligible for REGULAR (state) UI benefits based on how her job ended with this employer.

DECISION:

The September 5, 2024 (reference 02) UI decision is AFFIRMED. Ms. Paris voluntarily left her employment as of October 9, 2023 without good cause attributable to the employer. Ms. Paris is not eligible for REGULAR (state) UI benefits until she has worked in and been paid wages for insured work equal to ten times her weekly UI benefit amount, as long as no other decision denies her UI benefits.



Daniel Zeno
Administrative Law Judge

September 26, 2024
Decision Dated and Mailed

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⁶ Iowa Code § 96.6(2).

⁷ *Id.*

⁸ *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

⁹ *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

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.