



Department of Inspections,
Appeals, & Licensing

Iowa Department of Inspections, Appeals, & Licensing
Administrative Hearings Division
6200 Park Avenue, Suite 100, East Entrance
Des Moines, IA 50321-1270



Appeal Decision

Claim Number:

Determination Number:
7362682

Appeal Filed By:
CITY OF ATKINS

Appeal Filed Date:
08/12/2025

Appeals Bureau Docket:
2025145294-AT

APPEALS BUREAU DECISION OF ADMINISTRATIVE LAW JUDGE

Mail Date: November 3, 2025

Appellee

Claimant/Job Seeker: AMY BREESE
Claimant address: [Redacted]
Social Security Number: [Redacted]

Appellant

Employer: [Redacted] City Of Atkins
[Redacted]

In regard to the appeal by CITY OF ATKINS:

STATUTORY REFERENCE

Iowa Code § 96.5(1) - Voluntary Quit

ISSUES STATEMENT

Did Ms. Breese voluntarily quit without good cause attributable to the employer?
Did IWD overpay Ms. Breese REGULAR (state) UI benefits?
If so, should she repay the benefits?

CASE HISTORY

City of Atkins appealed the Iowa Workforce Development (IWD) August 4, 2025 qualifying separation determination. IWD found Amy J. Breese eligible for REGULAR (state) unemployment insurance (UI) benefits because IWD concluded Ms. Breese voluntarily quit working for the employer on July 8, 2025 because of a change in her contract of hire, and the employer caused her quitting. The employer appealed on August 11, 2025. On August 29, 2025 the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau sent a notice of hearing to the employer and Ms. Breese for a telephone hearing scheduled for October 22, 2025.

The administrative law judge held a telephone hearing on October 22, 2025. The employer participated in the hearing through Scott Flory, city administrator, and Bruce Visser, mayor. Douglas D. Herman, attorney, represented the employer. Ms. Breese participated

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in the hearing personally. Kelly Groskurth, and James Koehn, former Atkins city council member, offered to testify at witnesses for Ms. Breese. The administrative law judge took official notice of the administrative record from IWD and admitted Department's Exhibit 1, Claimant's Exhibits A-F, and Employer's Exhibit 1-9 as evidence.

The administrative law judge concludes Ms. Breese is not eligible for REGULAR (state) UI benefits based on how her job ended with this employer, IWD overpaid her \$3,786.00 in REGULAR (state) UI benefits, and she is required to repay IWD for these benefits.

FINDINGS OF FACT

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Breese began working for the employer in November 2021. She worked as a full-time deputy city clerk. As of December 4, 2024, Ms. Breese also worked as interim city clerk. Her employment ended on July 8, 2025.

The employer hired Mr. Flory as city administrator as of February 25, 2025. Per the employer's July 9, 2021 Ordinance No. 223, the city administrator is the city clerk. Claimant's Exhibit E. Per the employer's December 3, 2024 Resolution No. 2024-12-02 (Resolution), which appointed Ms. Breese as interim city clerk, "...upon the City hiring a 'permanent' City Clerk, Amy Breese should be removed as interim City Clerk and returned to her position as Deputy City Clerk..." Claimant's Exhibit D and Employer's Exhibit 3. Ms. Breese understood the Resolution to mean she would automatically and immediately no longer be interim city clerk as soon as the employer hired a city administrator/city clerk. The employer hired Mr. Flory with the understanding that the employer would eventually separate the city administrator and city clerk positions, Mr. Flory would only be city administrator, and the employer would hire a city clerk. Ms. Breese was aware of this understanding from her role as interim city clerk. Ms. Breese told Mr. Flory and Mr. Visser several times, including in March 2025, that she no longer wanted to be interim city clerk. Mr. Flory told Ms. Breese the employer was working on getting her out of the clerk position. At some point in June or July, the employer posted the city clerk position and invited applications.

The Resolution provides the employer would continue to pay Ms. Breese at her current rate of pay even though she worked as both deputy city clerk and interim city clerk, and "...the Council will consider an increase to the rate of pay by no later than January 2025..." Id. The employer did not consider a pay raise for Ms. Breese by January 2025. So, on March 12, April 1, May 7, and May 27, Ms. Breese asked Mr. Flory and Mr. Visser to add the issues of 1) a pay increase for her work as interim city clerk, and 2) back pay for her work as interim city clerk to the city council agenda. Claimant's Exhibit D. The employer did not increase Ms. Breese's pay.

On Wednesday, July 2, Ms. Breese sent an email to Mr. Flory, Mr. Visser and other resigning as interim city clerk effective immediately. Id. and Employer's Exhibit 4. Per the Resolution, Ms. Breese was required to give the City Council at least 30 days' notice of her intention to resign as interim city clerk. Id. and Employer's Exhibit 3. On Friday, July 4, Mr. Flory sent Ms. Breese a memo accepted Ms. Breese's resignation as interim city clerk, but based on the 30-day advance notice language in Resolution, Mr. Flory told Ms. Breese her resignation as interim city clerk was effective August 4, 2025. In the same memo, Mr. Flory also acknowledged Ms. Breese's multiple requests about a pay increase and back pay for her time working interim city clerk, and told her he did not support any additional pay for her. Finally, Mr. Flory told Ms. Breese he expected her to work in the office and "...not from home at your own determination." Id. and Employer's Exhibit 5.

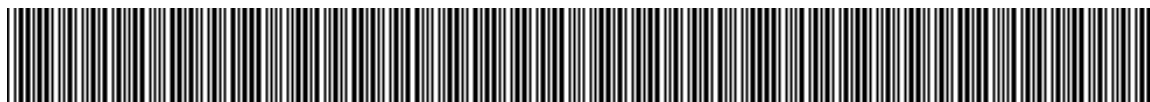
On Monday, July 7, Ms. Breese called in sick and did not work. On Tuesday, July 8, Ms. Breese worked from home, but did not inform the employer she would do so. Ms. Breese started work at about 9:00 a.m., and almost immediately saw Mr. Flory's July 4 memo. Ms. Breese understood the memo to mean she would have to be interim city clerk for 30 more days, she could no longer work from home, even though she had occasionally worked from home for the previous 4 years with no issues, and the employer would not pay her additional pay for her time as interim city clerk. Ms. Breese concluded that she had had enough. At 9:28 a.m., Ms. Breese sent an email to Mr. Flory, Mr. Visser and other resigning her employment with the City of Atkins effective immediately. Id. and Employer's Exhibit 6.

IWD paid Ms. Breese \$3,786.00 in REGULAR (state) UI benefits for 6 weeks between July 6, 2025 and August 16, 2025. The employer received notice of the fact-finding interview, and Mr. Flory participated in the interview on behalf of the employer.

CONCLUSION OF LAW

For the reasons that follow, the administrative law judge concludes 1) Ms. Breese's separation from employment on July 8, 2025 was without good cause attributable to the employer, and 2) IWD overpaid her \$3,786.00 in UI benefits, and 3) she is required to repay IWD for these benefits.

Ms. Breese Voluntarily Quit on July 8, 2025 Without Good Cause Attributable to The Employer.



So She Is Not Eligible for UI Benefits

Iowa Code section 96.5(1) provides, in relevant part:

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. 871-24.18(11) and (33) 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 with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits, but the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code sections 96.5(1)"a" through "i" and 96.5(10). The following reasons for a voluntary quit are presumed to be without good cause attributable to the employer:

(11) Claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

(33) Where claimant gives the employer notice of an intention to resign and the employer accepted such resignation. This rule also applies to a 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.

In general, the employer has the burden to prove that a claimant is disqualified from receiving UI benefits. Iowa Code § 96.6(2). But, the claimant has the burden of proving that a voluntary leaving was for good cause attributable to the employer. *Id.* 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). "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).

In this case, Ms. Breese wanted to stop being interim city clerk soon after the employer hired Mr. Flory, and immediately as of July 2. Ms. Breese reads the Resolution to mean she was no longer the interim city clerk as soon as the employer hired Mr. Flory because he was the city clerk (and city administrator). But, that's not what the Resolution says. The Resolution says the employer "should" remove Ms. Breese as interim city clerk. The employer didn't do that, though. So, she remained the interim city clerk. To end this role, the Resolution required Ms. Breese to give the employer a 30-day advance notice. Ms. Breese did not do this, so the employer enforced the 30-day advance provision. Ms. Breese did not like this, so she quit.

Ms. Breese also did not like that Mr. Flory told her she could no longer work from home whenever she wished, or in her reading, at all. But, instead of talking with Mr. Flory about this, Ms. Breese quit. Finally, Ms. Breese wanted the employer to pay her additional pay for her time as interim city clerk. But the employer never agreed to pay her more. The Resolution makes clear the employer would continue to pay Ms. Breese her current rate of pay. The Resolution provides the employer would consider a pay increase no later than January 2025. But, that's not a guarantee of a pay increase.

Ms. Breese argues that she quit because she was concerned about her safety. But the safety incidents she testified about were from July 2023 when a resident tried to break into the office in which she worked, end of 2024 when residents made comments about her on social media, and in 2025 when City Council members yelled at each other and made threats to each other. She also argues she quit because in May 2025 Mr. Flory asked her to notarize a document outside the presence of the person who signed the document. But Ms. Breese didn't quit after any of these incidents. Ms. Breese didn't quit until she saw Mr. Flory's July 4 memo. Ms. Breese did what was best for her, but her leaving was not for good cause attributable to the employer. Ms. Breese is not eligible for UI benefits.

IWD Overpaid Ms. Breese \$3,786.00 In UI benefits,
And She Is Required to Repay IWD For These Benefits

Iowa Code §96.3(7) provides, in relevant part:

7. Recovery of overpayment of benefits.

- a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the



individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers. If the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, the employer's account shall not be charged for the overpayment.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

Iowa Admin. Code r. 871-24.10 provides, in relevant part:

Employer and employer representative participation in fact-finding interviews.

(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

Since Ms. Breese is not eligible for UI benefits based on how her job ended with the employer, she is not eligible for the UI benefits IWD already sent her. IWD overpaid Ms. Breese \$3,786.00 in REGULAR (state) UI benefits for 6 weeks between July 6, 2025 and August 16, 2025. Since the employer participated in the fact-finding interview, Ms. Breese is required to repay IWD for these benefits.

DECISION/REMAND

The August 4, 2025 qualifying separation determination is REVERSED. Ms. Breese voluntarily left employment on July 8, 2025 without good cause attributable to the employer. Ms. Breese 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.

IWD overpaid Ms. Breese \$3,786.00 in REGULAR (state) UI benefits for 6 weeks between July 6, 2025 and August 16, 2025. Since the employer participated in the fact-finding interview, Ms. Breese is required to repay IWD for these benefits.





Daniel ZENO

Administrative Law Judge

Iowa Department of Inspections, Appeals, & Licensing

Administrative Hearings Division

Unemployment Insurance Appeals Bureau

Please see the last page of this document for important information about reopening the appeal and further appeal rights.



INSTRUCTIONS FOR FILING AN APPEAL

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, IA 50321
Fax: (515)281-7191
Online: IowaWORKS account

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. A reference to the decision from which the appeal is taken.
2. That an appeal from such decision is being made and such appeal is signed.
3. 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.

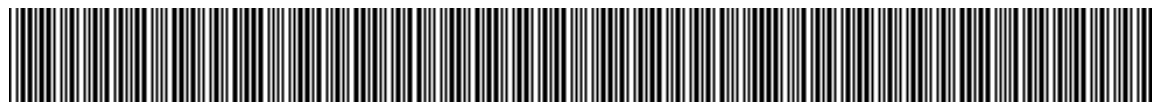
2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional 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 Iowa 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 the 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.



Babel Notice – Claim and Appeal Information

Aviso: Aviso: Documento De Beneficios Del Seguro De Desempleo
Y Información De Apelación

IMPORTANT!

This document contains important information about your unemployment compensation rights, responsibilities and/or benefits. It is critical that you understand the information in this document. **DEADLINE FOR APPEAL:** If you disagree with this determination or decision, you must file an appeal before the deadline noted in this document. **IMMEDIATELY:** If needed, call 866-239-0843 for assistance in the translation and understanding of the information in the document(s) you have received.

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Este documento contiene información importante sobre sus derechos, obligaciones y/o beneficios de compensación por desempleo. Es muy importante que usted entienda la información contenida en este documento. **PLAZO LÍMITE PARA APELAR:** Si usted está en desacuerdo con esta determinación o decisión, debe presentar una apelación antes del plazo límite indicado en este documento. **INMEDIATAMENTE:** Si necesita asistencia para traducir y entender la información contenida en el documento(s) que recibió, llame al 866-239-0843.

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这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。

上诉截止日期：如果您不同意本裁定或决定，您必须在本文件所载截止日期前提出上诉。**立即：**如果需要，请拨打866-239-0843，可获得帮助，以利您翻译和理解所收到的文件中的信息。

IMPORTANT!

Ce document contient des informations importantes sur vos droits d'allocation de chômage, vos responsabilités et/ou vos bénéfices. Il est indispensable que vous compreniez le contenu de ce document. **DATE LIMITE POUR FAIRE APPEL:** Si vous n'êtes pas d'accord avec cette détermination ou décision, vous devrez faire un appel avant la date limite signalée dans ce document. **IMMÉDIATEMENT:** Si nécessaire, téléphonez au 866-239-0843 pour avoir de l'assistance sur la traduction et/ou la compréhension de ce document.

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IMPORTANTE!

Ang mga dokumentong ito ay naglalaman ng mahalagang impormasyon tungkol sa iyong mga karapatan na makatanggap ng kabayaran, mga responsibilidad at /o benepisyo dahil sa pagkawala ng trabaho. Napakahalagang maunawaan mo ang mga impormasyong nilalaman sa dokumentong ito. **HULING ARAW PARA UMAPILA:** Kung hindi ka sumasang-ayon sa pagpapasiya o desisyon, dapat kang maghabol o magharap ng apila bago dumating ang huling araw na nabanggit sa dokumentong ito. **KAAGAD:** Kung kinakailangan ang tulong, tumawag sa 866-239-0843 para sa pagsasalin ng wika at pag-unawa ng impormasyon sa mga dokumentong natanggap mo.

IMPORTANTE:

Questo documento contiene informazioni importanti sui Suoi diritti di indennizzo di disoccupazione, sulle sue responsabilità e i suoi benefit. E' cruciale che Lei comprenda appieno le informazioni contenute in questo documento. **SCADENZA PER IL RICORSO:** Se non si trova in accordo con questa determinazione o decisione, dovrà presentare ricorso prima della scadenza riportata nel presente documento. **INMEDIATAMENTE:** In caso di necessità chiami il 866-239-0843 per assistenza alla traduzione e comprensione delle informazioni contenute nei documenti ricevuti.

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Tài liệu này chứa đựng tin tức quan trọng về quyền hạn, trách nhiệm và/hoặc những lợi lộc được đền bù trong khi thất nghiệp. Đó là điều tối cần thiết mà quý vị phải hiểu rõ những tin tức trong tài liệu này. **HẠN CHÓT KHIẾU NẠI:** Nếu quý vị không đồng ý với quyết định này, quý vị phải nộp đơn khiếu nại trước hạn chót ghi rõ trong tài liệu này. **MỘT CÁCH NHANH CHÓNG:** Nếu cần xin hãy gọi số 866-239-0843 để được giúp đỡ trong việc phiên dịch và hiểu rõ những tin tức trong tài liệu quý vị đã nhận.

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이 문서는 실업보상 권리, 책임 및/또는 혜택에 대한 중요한 정보가 포함되어 있습니다. 이 문서에 있는 정보를 이해 하는 것은 매우 중요합니다. **항소 마감:** 이 결정에 이견이 있으시면 항소인은 문서에 언급된 마감일 전에 항소를 제기하셔야 합니다. **즉시:** 받으신 문서의 번역 및 이해를 위해서 도움이 필요하시면 866-239-0843 로연락을 하시기 바랍니다.

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Ovaj dokument sadrži važne informacije o vašim pravima za naknadu nezaposlenosti, odgovornostima i/ili beneficijama. Veoma je važno da shvatite informacije u ovom dokumentu. **ROK ZA ŽALBU:** Ako se ne slažete s ovim određivanjem ili odlukom, morate uložiti žalbu prije roka navedenog u ovom dokumentu. **ODMAH:** Ako je potrebno, nazovite 866-239-0843 za pomoć u prijevodu i razumijevanju informacija u dokumentu(ima) kojeg ste primili.

ໝາຍເຫລາະສາ

ສໍາຄັນ! ເອກະສານນີ້ປະກອບດ້ວຍຂໍ້ມູນທີ່ສໍາຄັນກ່ຽວກັບສິດທິການຊົດເຊີຍການຫວ່າງງານ, ຄວາມຮັບຜິດຊອບ ແລະ/ຫຼືຜົນປະໂຫຍດຂອງທ່ານ. ມັນເປັນສິ່ງ ສໍາ ຄັນທີ່ທ່ານຕ້ອງເຂົ້າໃຈຂໍ້ມູນໃນເອກະສານນີ້. ກໍານົດເວລາການອຸທອນ: ຖ້າທ່ານບໍ່ເຫັນດີກັບການກໍານົດ ຫຼືການຕັດສິນໃຈນີ້, ທ່ານຕ້ອງອໍ້ນອຸທອນກ່ອນກໍານົດເວລາທີ່ລະບຸໄວ້ໃນເອກະສານນີ້. ທັນທີ: ຖ້າຕ້ອງການ, ໃຫ້ໃບຫາ 866-239-0843 ສໍາລັບການຊ່ວຍເຫຼືອໃນການແປ ແລະຄວາມເຂົ້າໃຈຂອງຂໍ້ມູນໃນເອກະສານທີ່ທ່ານໄດ້ຮັບ.

هام!

تحتوي هذه الوثيقة/ الوثائق على معلومات مهمة حول حقوق تعويض البطالة ومزاياها، لذا من الأهمية فهم المعلومات الواردة فيها. وإن كنت غير موافق على ما تحمله هذه الوثيقة/ الوثائق فيجب عليك تقديم استئناف قبل الموعد النهائي المشار إليه في هذه الوثيقة والاتصال فوراً على الرقم التالي: 866-239-0843 (٨٦٦٢٣٩٠٨٤٣) وإذا كنت بحاجة إلى مساعده في ترجمة وفهم المعلومات الواردة في هذه الوثيقة فلا تردد بالسؤال.