

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

KATIE M BRANDT
Claimant

APPEAL NO. 25A-UI-02013-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WYATT CONSTRUCT LLC
Employer

**OC: 04/28/24
Claimant: Respondent (1)**

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code 871-24.19(4) – Intolerable or Detrimental Working Conditions
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated February 28, 2025, reference 05, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 1, 2025. Claimant participated. Employer participated by Courtney Ingle, Human Resources Officer. During that hearing the employer requested to reschedule to allow time for the employer to submit exhibits. That motion was granted.

After due notice, a second hearing was scheduled for and held on April 23, 2025. Claimant participated. Employer participated by Courtney Ingle, Human Resources Officer. No additional exhibits were submitted and received prior to the hearing, and no exhibits were admitted. The administrative law judge took official notice of the administrative record.

ISSUES:

Whether claimant quit for good cause attributable to employer?
Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can any charges to the employer's account be waived?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 11, 2025. Claimant left the employment on that date because her work environment had become intolerable.

Claimant began working for employer as a full-time general manager on May 14, 2024. Claimant was given access to employer's rules and policies, and received on the job training at the time of hire.

When claimant began working for employer she was told she would get paid every two weeks. Claimant was involved in issuing payroll for other employees, but she was not allowed to pay herself without receiving authorization from the owner of the business.

Beginning in October, 2024 employer told claimant that it was having financial difficulties and that her paycheck would be delayed until funds became available. Claimant's pay was late for the November 1, 2024 and November 13, 2024 paydays. Claimant was later paid on November 22, 2024 to catch up for those dates. On January 6, 2025 claimant's pay was short, and she was not paid on January 24, 2025 and on February 7, 2025.

Claimant contacted the employer multiple times in January, and February, 2025 and requested that employer pay her what was owed for wages. Employer was not able to issue those checks. Claimant notified employer that she was leaving the employment on February 11, 2025 because she was not receiving pay for her work.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$5,941.00, since reopening her claim on February 15, 2025, for the 10 weeks ending April 19, 2025. The administrative record also establishes that the employer did participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because her work environment had become intolerable.

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. 871-24.19 provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. In addition to the reasons established in Iowa Code section 96.5(1), the following are reasons for a claimant leaving employment with good cause attributable to the employer:

- 24.19(2) Claimant left due to unsafe working conditions.
- 24.19(3) Claimant left due to unlawful working conditions.
- 24.19(4) Claimant left due to intolerable or detrimental working conditions.
- 24.19(5) Claimant was laid off by the employer for being pregnant; however, availability must still be determined.

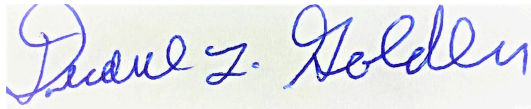
In the absence of an agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving employment. *Deshler Broom Factory v. Kinney*, 140 Nebraska 889, 2 N.W.2d 332 (1942).

The employer's failure to pay full wages as due created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

Because claimant's separation was not disqualifying, the issues of overpayment, repayment and chargeability are moot.

DECISION:

The decision of the representative dated February 28, 2025, reference 05, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

A handwritten signature in blue ink that reads "Duane L. Golden". The signature is written in a cursive style and is positioned above a horizontal line.

Duane L. Golden
Administrative Law Judge

April 24, 2025
Decision Dated and Mailed

dlg/scn

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
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:

**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.