

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DONALD D WILLARD
Claimant

APPEAL NO: 13A-UI-09696-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GARY D HEINS TRUCKING INC
Employer

OC: 07/28/13
Claimant: Respondent (5)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Gary D. Heins Trucking, Inc. (employer) appealed a representative's August 20, 2013 decision (reference 01) that concluded Donald D. Willard (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 26, 2013. This appeal was consolidated for hearing with one related appeal, 13A-UI-09697-DT. The claimant participated in the hearing. Chad Staton appeared on the employer's behalf. During the hearing, Employer's Exhibit One was entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Modified with no effect on the parties. Benefits allowed.

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on about January 2, 2012. He worked full time as an over-the-road truck driver. His last day of work was July 19, 2013.

The claimant has diabetes. While persons with diabetes are typically barred from driving, the claimant had worked with his physician to control his diabetes; he did have a waiver from the Federal Motor Carrier Safety Administration of the United States Department of Transportation (DOT) that allowed him to continue to drive even with his diabetes, but the waiver required that the claimant submit to quarterly evaluations by his doctor, and the waiver was subject to being removed if he had any hypoglycemic events.

The claimant had a hypoglycemic event in early June 2013. When he had his regular quarterly evaluation with the doctor on June 18, he reported the event. The doctor reported this to the DOT. As a result, the DOT issued a letter dated June 25, 2013 which informed the claimant that he was not medically qualified to operate a commercial vehicle for a year from the hypoglycemic event.

The claimant received this letter when he returned home on the evening of July 19. He immediately called the employer's manager, Staton, and informed him that his exemption had been rescinded and that he would not be able to drive for the employer for a year.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. The facts establish the claimant voluntarily quit his employment. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6-2.

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787 (Iowa 1956). The law presumes a claimant is qualified to receive benefits when he is compelled to leave because of a disease which makes it impossible for him to continue in employment because of serious danger to his health. For unemployment insurance purposes this amounts to an involuntary termination of employment and constitutes good cause attributable to the employer. 871 IAC 24.26(6)(b). The claimant's diabetes prevented him from continuing to work as an over-the-road driver for at least a year. The DOT would not allow the claimant to work for this period due to the medical event. For unemployment insurance purposes, the claimant satisfied the requirement of 871 IAC (6)(b). Benefits are allowed.

DECISION:

The representative's August 20, 2013 decision (reference 01) is affirmed as modified with no effect on the parties. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs