

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH G ELLIOTT
Claimant

APPEAL NO: 12A-UI-04303-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 03/11/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(35) – Non-Job Related Illness
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated April 9, 2012, reference 01, that held he voluntarily quit employment without good cause on January 30, 2012, and benefits are denied. A telephone hearing was scheduled and held on May 8, 2012. The claimant participated. Lea Peters, HR Generalist, participated for the employer.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time over-the-road driver from April 6, 2011 to January 30, 2012. The claimant is a type II diabetic. He resigned without notice on January 30 due to health issues, and the employer accepted his resignation. He was not advised by his doctor to quit though it was suggested he find less sedentary work than truck driving. Claimant is now looking for construction work that he has performed in the past.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on January 30, 2012 when he chose to resign due to a non-job-related health issue that is not based on doctor's advice.

While claimant had learned from his doctor that sedentary work as a truck driver was not ideal due to a lack of physical activity, he was not advised to quit his job. While he had a good personal reason for quitting, it is not attributable to the employer.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes claimant is able and available for work based on him searching for construction work that he has had prior experience.

DECISION:

The department decision dated April 9, 2012, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on January 30, 2012. Benefits are denied until the claimant has worked in and is paid wages for insured work, equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css