

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE A HETRICK
Claimant

APPEAL NO. 06A-UI-09554-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAWKEYE WOOD SHAVINGS INC
Employer

OC: 08-06-06 R: 03
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 20, 2006, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on October 11, 2006. The claimant did participate. The employer did participate through Colleen Adkins, Safety and Human Resources Manager, and Mitch Marquardt, Mechanic.

ISSUE:

Did the claimant voluntarily quit her employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as an over-the-road driver full time beginning July 12, 2005 through August 11, 2006, when she voluntarily quit.

The claimant quit because the truck she had been assigned to drive was without air conditioning during some of the hottest time of the year. The claimant was required to sleep in the sleeper cab of the truck; and without air conditioning in the truck, temperatures could rise to over 100 degrees. The claimant left on an over the road trip during the first week of August. A few days into the trip the air-conditioning in the truck went out again. The claimant called the employer and spoke to the head mechanic, Dave, who told her she would have to wait to have the air-conditioning repaired until she returned from the trip. The claimant was told she was not allowed to have the air conditioning repaired on the road, as it was too expensive and the employer could fix it by using their own in-house mechanics much more inexpensively. This was not the first time the air conditioning had gone out in the truck the claimant was assigned to drive. The claimant continued driving. The truck then broke down on the side of the road and the claimant had to call for repairs. When the belts were being repaired, the roadside mechanic also fixed the air conditioning belts that were stopping the air conditioner from functioning. The

claimant finished the trip with air-conditioning. She returned to the shop and gave the bill to the employer, which included the air conditioning repair costs. The employer paid the full bill. The claimant then informed the employer that she was quitting because she could not take being assigned to drive defective equipment any longer. Previously, the claimant had asked the employer to put her up in a hotel; and she testified that she was told she would have to sleep in the sleeper cab, even though the air conditioning was not functioning, or pay for a hotel room on her own. The claimant testified that if she had known she could get a hotel room while the air conditioner was broken she would have since it was so miserable in the sleeper that she felt ill and light headed. The claimant had previously complained about the air conditioner going out in the truck. The air condition broke on three separate occasions during the summer months.

Since quitting, the claimant has decided to return to school and to pursue a cosmetology license so she can work as a hairdresser.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with 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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

While the employer did fix the truck when the claimant complained about it, the claimant was subjected to a truck that broke down repeatedly, at least three times during the summer months, and forced her to work and sleep in extremely hot temperatures. While the employer does deny that the claimant ever asked for or was denied payment for a hotel, the administrative law judge finds the claimant's testimony more believable as she did not get a hotel. Had the claimant been told she could stay in a hotel while the temperatures were so hot, the administrative law judge is convinced that she would have. Her failure to stay in the hotel convinces the administrative law judge that she believed she could not. The claimant complained about the air-conditioning situation repeatedly. Because of the repeated breakdowns and the employer's refusal to put her up in a hotel, the claimant has established intolerable working conditions. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The September 20, 2006, reference 01, decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw