

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ULA K HOWSER
Claimant

APPEAL NO. 14A-UI-03736-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREATER OMAHA EXPRESS
Employer

OC: 07/14/13
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Ula Howser (claimant) appealed a representative's April 9, 2014, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Greater Omaha Express (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 28, 2014. The claimant participated personally. The employer participated by A Drummond Crews III, President; Melissa Brinkman, Human Resources Manager/Payroll Manager; and Steven Barndt, Safety Director.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 27, 2013, as a full-time over-the-road driver. The claimant signed for receipt of the employer's handbook on July 27, 2014. The claimant did not appear for work or notify the employer of his absence on March 5, 2014. The employer talked to the claimant about his absence on March 7, 2014. The employer placed the claimant in a truck equipped with an electronic tracking system.

The claimant worked for the employer from March 14 until he returned with the truck on March 17, 2014. The employer had a load for the claimant to take on March 18, 2014, but the employer could not reach the claimant. The employer tried to reach the claimant multiple times at multiple numbers. The claimant never returned the employer's calls until approximately March 24, 2014. The claimant said, "I guess I'm out of a job now". The claimant was absent for approximately seven days of work without notice to the employer. The employer assumed the claimant had quit work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without 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.

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). The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. The claimant stopped appearing for work and answering the telephone. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The claimant's and the employer's testimony did not match. The administrative law judge finds the employer's testimony to be more credible because the claimant's testimony was internally inconsistent.

DECISION:

The representative's April 9, 2014, decision (reference 02) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css