

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BILL D NILES
Claimant

APPEAL NO. 08A-UI-08679-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCREAMER EXPRESS INC
Employer

**OC: 01/06/08 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 23, 2008, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 15, 2008. Claimant participated. Employer participated by Lucy Thomas, Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on August 16, 2008. Claimant was asked to work Saturday. Claimant refused, indicating that the truck needed new brakes. Employer had scheduled brake replacements for that day. Claimant refused to work. The employer's telephone went dead. Claimant tried to call back many times, to no avail. Finally, claimant called in and left a message that he quit. Claimant did not return to ask for further work. Claimant was not forced to drive the truck with bad brakes. The truck had its brakes replaced the same day claimant quit.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of alleged unsafe working conditions. Since claimant was not forced to work driving a truck with bad brakes, there is no proof of an unsafe working condition. Claimant quit after he could not get back in touch with the employer. Claimant made no additional effort to work out the problem with employer after the call was dropped. Employer did in fact fix the bad brakes. Here, claimant did not make sufficient effort to resolve the problem with employer. Benefits withheld.

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.

DECISION:

The decision of the representative dated September 23, 2008, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw