

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES POINT**  
Claimant

**APPEAL NO. 07A-UI-01586-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**R&J TRUCKING INC**  
Employer

**OC: 01/14/07 R: 01**  
**Claimant: Appellant (1)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The claimant, James Point, filed an appeal from a decision dated February 9, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 28, 2007. The claimant participated on his own behalf and with witness Brenda Sherrard. The employer, R&J Trucking, participated by Vice President Joyce Warnke. Exhibit One was admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

James Point was employed by R&J Trucking from March 28 until October 17, 2006. He was a full-time over the road driver.

On October 17, 2006, the claimant notified Vice President Joyce Warnke he had unloaded in Chariton, Iowa, and was on his way back to the terminal. During that call, the employer notified him the company had received notice from its third party administrator that he had been selected for a random drug test. She told him to report to the clinic in Carroll, Iowa, on his way back.

He arrived at the office later that day and Ms. Warnke did notify him, and reprimand him, that one of his loads from earlier in the month had come up short and the company had to pay the difference. This had happened before, but it was not a dischargeable offense. She then asked him if he had given the drug testing sample at the clinic as requested and he said he had not, that he was quitting because he wanted to find “something else to do” as he did not want to continue driving truck.

The records of Iowa Workforce Development do not indicate the claimant has earned any wages from any other employment subsequent to the separation from R&J Trucking.

**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(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

The claimant quit to seek other employment, and possibly because he did not want to take the drug test as required by federal department of transportation regulations. In either circumstance, it does not constitute good cause attributable to the employer and the claimant is disqualified.

**DECISION:**

The representative's decision of February 9, 2007, reference 01, is affirmed. James Point is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw