

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT E SCHARNHORST
Claimant

APPEAL NO: 14A-UI-02322-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAVERLY TRUCKING INC
Employer

OC: 02/09/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntarily Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 27, 2014 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. His wife, Tanna, testified on his behalf. Larry Haverly, the owner, and Loann Haverly appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on December 14, 2013. The claimant worked full-time driving local routes.

The employer allowed the claimant to take the employer's truck home at night. The morning of February 7, 2014, a gear shift knob on the employer's truck broke. The claimant concluded he would not be able to drive the truck very easily with the broken gear shift knob. The claimant asked his wife, Tanna, to call the employer to let him know about the broken gear shift. Since the claimant does not have cell phone reception at his residence, his wife drove to a local convenience store to call the employer. The employer, Haverly, told Tanna the claimant just needed to come and get another truck to make his delivery that day. Tanna indicated this would not be problem. She then went back home and relayed the message to the claimant. Instead of taking the claimant to get another truck, Tanna went to work. The claimant planned to drive his personal truck to the employer's location to pick up another truck and make his delivery.

The claimant's truck had not been started for over a month. It was below zero and the claimant could not get his truck started. As a result of the poor cell phone reception, the claimant was unable to call the employer or his wife and ask them to pick him up so he could work.

The employer assumed the claimant had gone with his wife to get another truck. When Haverly he went to the claimant's residence to pick up the truck with the broken gear shift knob, he did not know the claimant was there.

Earlier that day, the claimant asked his wife to stop after work to pick up his paycheck because he would probably work later. When Tanna stopped to pick up the claimant's paycheck, she noticed that the claimant's vehicle was not work and Haverly was upset. The company that the claimant had been scheduled to make a delivery had called to ask Haverly why their delivery had not been made. This company was upset and the employer ultimately lost this business as a customer. After this customer complained, Haverly became more upset when he called the claimant and he did not answer or return Haverly's calls. The claimant did not know Haverly called him because of the poor cell phone reception at his residence.

When Tanna came to pick up her husband's check, she assumed the claimant had made the delivery and used his truck to get to the employer's business. Haverly told Tanna that the claimant needed to talk to Haverly. Haverly took some of frustration out on Tanna and indicated she could not get the claimant's payroll check.

Haverly upset the claimant's wife when he used profanity while talking to her. She understood that Haverly never wanted her husband to set foot on his property again. When Tanna got home, she described the situation to the claimant. He did not appreciate Haverly swearing while talking to his wife. He also understood that since Haverly did not want the claimant on his property, that Haverly had discharged him. The claimant did not contact Haverly to explain what had happened in an attempt to keep his job. The claimant did not return to work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1),(2)a. When the claimant's wife went to pick up his check on February 7, she had no idea what had happened after she went to work that morning. When the claimant did not respond to Haverly's message and did not make the scheduled delivery, Haverly was justifiably upset. While Haverly should not have taken his frustration out on Tanna, the claimant should have made a point to meet Haverly in an attempt to explain what had happened that day. Instead, he was upset because of the way Haverly talked to his wife. Based on information from his wife, the claimant assumed Haverly had discharged him. The claimant's failure to make any attempt after February 7 to explain to Haverly what had happened that day supports the conclusion that the claimant decided he would not return to work and end this employment.

While his wife was upset, the claimant worked for Haverly, not his wife. Both the claimant and Haverly came to incorrect conclusions. Since the claimant did not have good cell phone reception and he did not make the scheduled delivery, he should have reached out to Haverly if he wanted to continue his employment. For unemployment insurance purposes, the claimant quit this employment.

When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2). The claimant established personal reasons for failing to contact the employer after February 7. His reasons do not qualify him to receive benefits. As of February 9, 2014, the claimant is not qualified to receive benefits.

DECISION:

The representative's February 27, 2014 determination (reference 02) is affirmed. The claimant's failure to contact the employer after February 7 amounts to voluntarily quitting his employment. The claimant had personal reasons for quitting, but his reasons do not qualify him to receive benefits. As of February 9, 2014, the claimant is not qualified to receive benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css