

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS W SHEA
Claimant

APPEAL NO: 11A-UI-15893-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LAMCO LTD
Employer

OC: 11/06/11
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 1, 2011 determination (reference 01) 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. Jim Yeager, the manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working as an over-the-road driver for the employer in June 2008. During his employment, he made various complaints about some safety issues regarding the tractor-trailer he drove. After Yeager became the manager, the employer started buying new equipment to drive. The employer had recently offered the claimant a new truck to drive, but he declined.

On Saturday, November 5, around 5 p.m., the claimant called Yeager and told him that he did not feel safe going out on the road with one of the tires on his truck. The tire had a big gouge in it. The claimant believed that with the size and depth of the gouge, the tire was not safe to drive on. Yeager told the claimant that he drove with this tire a couple weeks ago and the mechanic had told him it was safe. Yeager told the claimant to just go ahead and take the truck and do his delivery. The claimant did not argue, but he did not feel safe driving with that tire. About a year ago, the claimant had a tire blowout when he was driving. He did not want to have the same or similar experience.

After thinking about the employer's remarks, the claimant decided to quit because the employer did not appear to care enough about the claimant's safety or his safety record to change a tire that the claimant did not feel was safe to drive on. After the claimant removed his personal property from the truck, he contacted Yeager and told him that he had quit.

If Yeager had known the claimant would quit if the tire was not changed, he would have made arrangements to change the tire. The employer changed the tire with the gouge about three weeks later.

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. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he has left employment for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits with good cause when he quits because of unsafe working conditions. 871 IAC 24.26(2). The employer may have changed the tire if claimant had told the employer he would quit if he had to drive on a tire he concluded was not safe. The law does not require a claimant to put an employer notice that he will quit if the employer does not take steps to address an issue. This case comes down to the issue of whether the claimant reasonably believed the tire was not safe to drive on. The claimant presented justifiable reasons that made him conclude the tire was not safe for him to drive. In this case, the claimant quit his employment for reasons that qualify him to receive benefits. As of November 6, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's December 1, 2011 determination (reference 01) is reversed. The claimant voluntarily quit his employment for reasons that qualify him to receive benefits. As of November 6, 2011, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw