

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DAVID F RUSSMAN
142 AVE B
DENISON IA 51442

3 D AUTO TRANSPORT INC
13333 FAIRVIEW RD
SPRINGFIELD NE 68059

Appeal Number: 05A-UI-01455-DT
OC: 01/02/05 R: 01
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party request the Appeals Section to *reopen the record* at the address listed at the top of this decision, or appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

David F. Russmann (claimant) appealed a representative's February 4, 2005 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from 3 D Auto Transport, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 28, 2005. The claimant participated in the hearing. Lori Dover appeared on the employer's behalf and presented testimony from one other witness, Patricia Dover. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on April 12, 2004. He worked full time as an over-the-road truck driver in the employer's car transportation business. His last day of work was December 23, 2004.

At approximately 6:00 p.m. on December 22, 2004, the claimant was finishing loading some cars from the Omaha, Nebraska car auction to be delivered to a town in western Nebraska. Lori Dover, one of the owners, drove up to the claimant to give him some paperwork for the next load for the next day. Her daughter, Patricia Dover, was in the passenger seat of the car. Lori Dover passed the paperwork across Patricia Dover to the claimant. He looked at it and gave it back. He replied that he was tired and fed up, that he had financial problems at home, and he was done, he was going to go home to northwest Iowa when the current load was done. He then turned away and Lori Dover drove away. She understood that he was quitting after delivering his load. He had not been feeling well, but he did not report this to the employer and did not ask for time off to recuperate.

The claimant drove the load that night, arriving at approximately 11:00 p.m. He slept in the truck sleeper that night, and drove back to the employer's facility the morning of December 23, 2003. When he arrived at approximately 11:00 a.m., he was surprised when Mr. Dover had him clean out his truck.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for 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.

871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant's statements conveyed his intent to leave his employment, and the employer reasonably construed the claimant's announcement to mean that he was quitting. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's February 4, 2005 decision (reference 02) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of December 23, 2004, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

ld/kjf