

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD L STEPHEN
Claimant

APPEAL NO. 07A-UI-06790-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BELGER CARTAGE SERVICE
Employer

**OC: 09/17/06 R: 01
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Richard L. Stephen filed a timely appeal from an unemployment insurance decision dated July 3, 2007, reference 03, that disqualified him for benefits. After due notice was issued, a telephone hearing was held July 23, 2007 with Mr. Stephen participating. Jerry Ewton and Debbie Bengé participated for the employer, Belger Cartage Service.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Richard L. Stephen was a crane operator for Belger Cartage Service, working in Tulsa, Oklahoma, from June 4, 2007 until he resigned June 14, 2007. He was a full-time employee. Mr. Stephen was hired through his union. The business agent told him that it was likely that the job would entail 12-hour days, seven days a week. Mr. Stephen accepted the job under those circumstances. When he got to the job site, he learned that the first work week would entail six 10-hour days. Hoping that the hours would increase, Mr. Stephen stayed. He resigned, however, after learning that he would not work seven 12-hour days a week. Mr. Stephen is from Council Bluffs, Iowa. Working on the road he hoped for a maximum number of hours of work per week to make expenses and profit. The company had not told the union that the job would definitely involve seven 12-hour days each week.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. An individual may receive unemployment insurance benefits if he or she resigns because of a substantial change in the conditions of employment. See 871 IAC 24.26(1). On the other hand, an individual is disqualified for benefits if he resigns because of dissatisfaction with wages but knew the rate of pay when hired. See 871 IAC 24.25(13).

The evidence in the record does not persuade the administrative law judge that the employer misrepresented the hours and days of work. Mr. Stephen accepted the job because of an overly optimistic estimate from his business agent as to his earnings. While Mr. Stephen may have had good personal cause to leave the job, it was not cause attributable to Belger Cartage Service. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated July 3, 2007, reference 03, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs