

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON S POWELL

Claimant

APPEAL NO. 07A-UI-07947-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

**OC: 06/10/07 R: 12
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 8, 2007, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on September 4, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Leah Carr participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as an over-the-road truck driver from January 11, 2006, to January 15, 2007. The claimant was informed and understood that under the employer's work rules, a driver is considered to have voluntarily quit employment after 15 days of absence from work.

In January 2007, the claimant was suffering from kidney stones that were making it difficult for the claimant to drive. He had been advised by his doctor to take time off from driving to allow the stones to pass.

On January 15, 2007, the claimant informed the employer that he need to be at home for personal reasons and that he did not know when he would be able to return to work again. He was informed that if he was off work for more than 15 days, he would have to re-apply for work and go through orientation. He was told to contact the employer when he was available to work again.

On January 23, the fleet manager called the claimant to find out if was coming back to work. He left messages for the claimant to call to let the employer know what his intentions were. The claimant did not return the call. On February 1, the operation manager called the claimant to find out if was coming back to work. He left messages for the claimant to call to let the employer know what his status was. No return call was made.

Since the claimant had been absent from work for over 15 days and had no contact with the employer during that time, the employer considered him to have resigned under its policy.

In early April 2007, the claimant passed the kidney stones. He was not under a doctor's care while he was off work. There is no evidence the claimant's recovery was certified by a licensed and practicing physician. The claimant contacted the employer around the end of April 2007 but was informed that he was not eligible for rehire.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without 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.

The unemployment insurance law provides that individual is qualified to receive benefits if he: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that he needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but his regular work or comparable suitable work was not available. Iowa Code section 96.5-1-d.

The claimant has established he left work due to illness based on a doctor's advice and notified the employer that he needed to be absent. It is not clear that the claimant said anything other than he was going to be off work for personal reasons. Although I believe the claimant had contacted the employer about returning to work after he had passed the kidney stones and was told he was not eligible for rehire, there is no evidence that his recovery was certified by a licensed and practicing physician, which is a requirement for receiving benefits under Iowa Code section 96.5-1-d.

A claimant who leaves employment for compelling person reasons can also qualify for unemployment insurance benefits, but only if he leaves work for 10 days or less. Iowa Code section Iowa Code section 96.5-1-f. The claimant would not qualify under this section of the law.

DECISION:

The unemployment insurance decision dated August 8, 2007, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid

wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs