

**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**

**TERRY TURNER
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**CONTRACT TRANSPORT INC
PO BOX 575
DES MOINES IA 50306**

**Appeal Number: 05A-UI-05103-ET
OC: 04-17-05 R: 02
Claimant: Appellant (4)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party 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:

The claimant filed a timely appeal from the May 11, 2005, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 1, 2005. The claimant participated in the hearing. Jeane Nible, Corporate Treasurer, and Alan Bergman, Human Resources, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time over-the-road truck driver for Contract Transport from May 18, 2000 to March 23, 2005. He submitted his two-week resignation notice March 14,

2005, effective March 28, 2005, stating he no longer wished to work as an over-the-road driver. The claimant had difficulty sleeping during the day and consequently was not satisfied driving long overnight routes. The claimant testified he "could have called the shots" and taken his breaks and was aware that it is the driver's responsibility to sleep during the day if he is going to be driving at night and that the employer told him to pull over if he became tired while on his route. The claimant was dissatisfied with other aspects of his job and decided to leave. He did not give the employer any specific reason for his decision to leave except that he did not want to continue to work as an over-the-road driver. On March 23, 2005, the dispatcher told the claimant to clean out his truck after the claimant expressed reservations about taking a run that started late at night and would require him to try to sleep during the day, which he was having difficulty doing. The claimant was discharged five days before the effective date of his resignation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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.

871 IAC 24.25(38) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2 (amended 1998). While the claimant was dissatisfied with the work environment he failed to articulate a clear reason for his leaving to the employer or during the hearing beyond the fact that he did not want to work as an over-the-road driver

any longer. Consequently, the administrative law judge concludes the claimant has not met his burden of proving that his leaving was for good cause attributable to the employer as defined by Iowa law. That said, however, the claimant was discharged prior to the end of his two-week notice period. Therefore, the claimant is entitled to receive benefits for the six days (March 23 through March 28) he was prevented from working to complete his notice period.

DECISION:

The May 11, 2005, reference 02, decision is modified in favor of the appellant. The claimant voluntarily left his employment without good cause attributable to the employer but was discharged prior to the end of his notice period. The claimant is eligible for benefits from March 23 to March 28, 2005, but after that benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

je/s