

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

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CEDAR VALLEY TRANSPORT  
1112 – 29<sup>TH</sup> AVE SW  
CEDAR RAPIDS IA 52404-3409

Appeal Number: 04A-UI-00981-ET  
OC 12-29-02 R 03  
Claimant: Appellant (1)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 22, 2004, reference 08, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 19, 2004. The claimant participated in the hearing. Larold Witt, President, 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 Cedar Valley Transport from July 4, 2003 to September 5, 2003. On September 3, 2003, the claimant was dispatched to take a load from Excelsior Springs, Missouri, to Columbia, South Carolina, and was scheduled

to deliver and reload September 5 or 6, 2003. The claimant drove to Kentucky and then turned around and returned to Excelsior Springs. He then took the trailer to Eagleville, Missouri, and left a message on the employer's answering machine informing it where he left the truck. The claimant testified he could not complete the run because he did not have enough driving hours and that he called the employer from Kentucky to discuss the cracked windshield and the fact he did not believe he was receiving enough hours. The employer testified the load was a "plant-to-plant move" and consequently, there was no appointment time for delivery, which would have allowed the claimant to take his break before continuing the trip to South Carolina without running over on hours and that the crack in the windshield does not take the truck out of service. The employer also testified that while the claimant called from Kentucky, he did not call to complain about the windshield or his hours, but asked for an advance on his salary. The employer was providing the claimant with the same hours but his checks were small because of previous advances against his pay, deductions for child support and health insurance.

#### 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.

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). A voluntary quit means discontinuing the employment relationship 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). While the claimant testified he returned to Excelsior Springs, Missouri after calling the employer from Kentucky because he did not have enough legal miles left to complete the trip to South Carolina, the employer disputes that the claimant did not have driving hours left and testified that even if he were out of hours the claimant could have taken his break in Kentucky and, thus gained the hours he needed to continue to South Carolina, as he was not required to arrive at a time certain. The claimant also testified he called the employer to complain about a crack in the windshield of his truck and the size of his paycheck, attributing his small paychecks to a lack of hours. The claimant could not explain how he could return to Missouri without any driving hours left but could not continue to South Carolina or why, if he found the cracked windshield to be a reason for not finishing his trip, he would have accepted the load in that truck to begin with. The employer credibly testified that the claimant called from Kentucky to complain about his paychecks and to ask for an advance of his pay and the employer explained to him at that time that his checks were small because of previous advances he received that were now being deducted, as well as the amount of child support the employer was required to deduct. The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment unlawful, detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Consequently, the administrative law judge

concludes the claimant has not met his burden of proving his leaving was for good cause attributable to the employer. Benefits are denied.

DECISION:

The January 22, 2004, reference 08, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. 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/b