

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DANIEL W DEPARDO
Claimant

FASTBREAK EXPRESS INC
Employer

APPEAL NO. 14A-UI-05726-B2

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/29/13
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 30, 2014, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 29, 2014. Claimant participated. Employer participated by Jackson Frerichs. Employer arrived late for hearing but did participate while hearing was in progress. Claimant's Exhibits 1-11 were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 8, 2013. Claimant had difficulties with a poorly running truck owned by employer's company. The truck had engine problems, would overheat, blew out white smoke, and ran poorly. Claimant also believed that carbon monoxide was released into the cabin, which claimant argued caused his elevated blood pressure.

Claimant did not contact employer at any time after he dropped off this truck with the many problems. Claimant did not pick up a check that was waiting for him for over eight months. Claimant stated that employer did not call him at all over that period, but employer disputes this stating that he was in the room on numerous occasions when dispatcher attempted to call claimant. Claimant stated that he was contacted by his brother-in-law sometime after he had dropped off the truck, and his brother-in-law told him he'd been fired.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of the poor operational condition of employer's trucks. Employee must give employer notice of intention to quit for unsafe working conditions unless the conditions are alleviated. Swanson v. EAB, 554 N.W. 2d. 294 (Iowa App. 1996).

Claimant's testimony alternated between stating that he was worried about his health and that was what drove him away from the job to making statements that he was ready to come back to work at any time, to statements that he was informed through a third party that he'd been fired (admittedly claimant had been drinking on the day he was told this information).

The administrative law judge does not find that claimant's single medical document that he had slightly elevated blood pressure to be indicative that his work environment was detrimental to claimant's health absent any other supportive documentation from a doctor. Additionally, claimant's statements that he was ready to return to work at any time seems to be contradicted by the fact that claimant never called employer, and the fact that claimant didn't go by employer's office to pick up his last paycheck for a period. Lastly, claimant's statement that he was told he had been fired was mitigated by the fact that he was told this information by his brother-in-law who holds no position of authority within the company and by the fact that claimant had been drinking on the day he was told this information.

DECISION:

The decision of the representative dated May 30, 2014, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs