

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BOBBY G WATTS

Claimant

APPEAL NO. 11A-UI-07312-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

OC: 04/17/11

Claimant: Appellant (4)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Bobby G. Watts filed a timely appeal from an unemployment insurance decision dated May 24, 2011, reference 01, that disqualified him for benefits following his separation from employment with Heartland Express, Inc. of Iowa. After due notice was issued, a telephone hearing was held June 28, 2011, with Mr. Watts participating and with Human Resources Generalist Lea Peters taking part for the employer. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

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

FINDINGS OF FACT:

Bobby G. Watts was employed as a truck driver by Heartland Express, Inc. of Iowa from April 2, 2008, until he resigned on April 28, 2011.

Mr. Watts returned from a two-week vacation on April 19, 2011. Following established procedure, he had notified the employer on April 15 of his return so that the employer could arrange for a truck. Mr. Watts called again on April 18, 2011, and returned on April 19. No truck was available. For over a week, he attempted to get a load to deliver. In the meantime, he applied for work with Averitt Express, another trucking company. Negotiations with that company were drawn out due to a prescription medication that Mr. Watts takes. Eventually, he was hired by Snyder National on June 9, 2011.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant should be disqualified for benefits. The administrative law judge concludes that disqualification is appropriate beginning April 24, 2011.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Mr. Watts resigned in anticipation of being hired by Averitt Express. One who resigns in order to seek other employment but who does not secure that employment is disqualified for benefits. See 871 IAC 24.25(3). Since Mr. Watts resigned during the week of April 24, 2011, the disqualification must begin then. He was off work during the week of April 17, 2011, because his employer had no work for him. Benefits are allowed for that week.

DECISION:

The unemployment insurance decision dated May 24, 2011, reference 01, is modified in the claimant's favor. He is entitled to receive unemployment insurance benefits for the week of April 17, through April 23, 2011, provided he is otherwise eligible. Benefits are withheld effectively April 24, 2011, until he 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

kjw/kjw