

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KENNETH J THOMAS**  
Claimant

**APPEAL NO. 08A-UI-04768-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A V TRANSPORTATION**  
Employer

**OC: 04/13/08 R: 04**  
**Claimant: Appellant (4)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Kenneth Thomas filed an appeal from a representative's decision dated May 8, 2008, reference 01, which denied benefits based upon his separation from A V Transportation, Inc. After due notice was issued, a telephone conference hearing was conducted on June 3, 2008. Mr. Thomas participated personally. The employer participated by Mr. Jamie Liddle, operations manager.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer from October 2002 until April 11, 2008, when he tendered his two-week notice of intention to leave employment. Mr. Thomas was employed as a full-time over-the-road tractor trailer driver and was paid by the mile.

Mr. Thomas tendered his two-week notice of intention to leave on April 11, 2008, after a dispute with the company's operations manager regarding problems with equipment, loading times, and assignments. Because of difficulty in getting a load due to a leak in a trailer, Mr. Thomas returned to the employer's facility on April 11, 2008, with his truck unloaded. The parties had argued earlier in the day and Mr. Thomas gave notice upon returning to the facility. Although the claimant had provided a two-week notice of his intention to leave, the employer discharged the claimant prior to the proposed date of resignation because the claimant had given notice of his intention to leave. Had the claimant not tendered his notice of intention to leave, he would have not been discharged that day.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The administrative law judge concludes that the claimant left his employment due to personal dissatisfaction with modifications of his tractor unit for fuel-saving reasons and because of problems associated with equipment repair and available loads. Although the evidence establishes that Mr. Thomas was dissatisfied that day, his dissatisfaction did not provide good cause for leaving his employment for reasons that were attributable to the employer.

The evidence in the record, however, establishes that prior to the effective date of his leaving of April 25, 2008, the claimant was discharged by the employer. No disqualification shall be imposed from the last day worked until the proposed date of resignation; however, benefits are denied effective April 25, 2008, the proposed date of resignation.

**DECISION:**

The representative's decision dated May 8, 2008, reference 01, is hereby affirmed as modified. The claimant left employment under disqualifying conditions; however, disqualification shall not be imposed from the claimant's last day of work, April 11, 2008, until April 25, 2008, the effective date of his proposed resignation.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

kjw/kjw