

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY M SHUMATE

Claimant

APPEAL NO. 10A-UI-09667-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

OC: 05/23/10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(21) – Dissatisfaction of the Work Environment

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 29, 2010, reference 01, that held he voluntarily quit employment on May 29, 2010, and that denied benefits. A telephone hearing was held on August 23, 2010. The claimant and his mother, Jean Rhodes, participated. Dave Dalmasso, HR Representative, participated for the employer. Claimant Exhibits A and B were received as evidence.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant began work on September 24, 2008 as a full-time over-the-road driver and last worked for the employer on May 29, 2010. The claimant is governed by the Federal Department of Transportation (D.O.T.) regulations. The claimant is required to maintain driving logs to record his on-duty, sleeper, driving, and off-duty (not driving) time, and he submits them to the employer. The employer does issue a pre-planned load assignment that a driver may accept or decline if it cannot be performed safely within D.O.T. regulations. The employer monitors claimant driving by a satellite (Qualcomm) installed tracking system. The employer reviews driving logs submitted by the claimant, which are subject to audit review by the D.O.T.

The claimant quit without notice or any reason offered to the employer on May 29. The employer accepted his resignation. During the hearing, the claimant stated he quit because the employer forced him to accept driving assignments knowing that it would require him to misrecord his driving logs to cover the illegality. Never during the course of employment did the claimant challenge the employer on this issue nor did the claimant report it to the D.O.T. or other driving enforcement agency. The claimant admits he filed false driving logs as to the amount of break time he recorded.

The employer employs about 3,000 drivers, and it is subject to D.O.T. audit of all driving conduct. The claimant believes that all employee-drivers are driving illegally.

REASONING AND CONCLUSIONS OF LAW:

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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on May 29, 2010 due to job dissatisfaction.

The documentary evidence submitted by the claimant does not show he was in violation of any driving regulation. The claimant contends the employer forced him to drive illegally by taking assignments that could not be performed within D.O.T. regulations. The claimant offered no evidence (driving logs) that he violated driving regulations other than to say he falsified his driving logs. The employer monitored the claimant by its satellite tracking system, which claimant admits was accurate, and in accord of regulations. The claimant never complained that the employer was forcing him to drive illegally to provide the employer an opportunity to correct any driving assignment.

Claimant's contention that all employee-drivers are driving illegally casts a serious doubt on his credibility. There is no evidence that the employer has been subject to regulatory enforcement for such an allegation.

DECISION:

The department decision dated June 29, 2010, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on May 29, 2010. Benefits are denied until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw