

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE LOPEZ
Claimant

APPEAL NO. 08A-UI-01209-ET

**ADMINISTRATIVE LAW JUDGE
NUNC PRO TUNC DECISION**

BENTON BUILDING CENTER INC
Employer

**OC: 07-29-07 R: 03
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 24, 2008, reference 06, decision that denied benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on March 5, 2008. The claimant participated in the hearing. Al Nagel, Mechanic at Benton Sand & Gravel; Shane Hare, Yard Work; Becky Huisman, Secretary/Office Manager; Tony Wendling, Counter Sales, and Erick Jensen, Partner; participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to 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 CDL Driver for Benton Building Center from November 7, 2007 to December 28, 2007. He voluntarily left his position because he was upset with the conditions of the trucks and the ice build up in the parking lot. He testified there was no heat in one of the trucks and the condition of the parking lot in the back area was icy and he fell on one occasion. The truck with no heat and the brake problems was fixed when the employer became aware of the problem but the employer did not always put sand or ice melt on the parking lot because it was having to shovel it off nearly every day. The claimant took the truck without heat in to be serviced but Mechanic Al Nagel does not recall him complaining about the heat at that time. Mr. Nagel found the trucks to be in "pretty good condition." Employee Shane Hare also drove the trucks and was not aware there was no heat in the white truck or that the red truck had a steering problem. The claimant told Secretary/Office Manager Becky Huisman that he was putting in his two-week notice because of the ice in the parking lot. Ms. Huisman does not recall the claimant commenting about the conditions of the trucks. Counter Sales Person Tony Wendling stated that the parking lots were icy but that parking lots all over town were icy at that time of year. They tried to salt the claimant's area but the claimant became angry and dumped a bucket of salt by the garbage can. The employer admits it did not salt all areas of the parking lot because it was "pointless to put down salt and then shovel it away the following day." The

red truck was “well within” the DOT regulations as far as steering. He agreed the white truck did not always have heat so he put a blanket over it and thought it resolved the problem. The temperature gauge was not working but a heater was not considered a necessity as long as the windows stayed clean. The windows fogged up on occasion but the problem was not reported to the employer. The claimant told Partner Erick Jensen he was quitting because he “could not handle the work” as he was slowing down and the work was becoming more extensive and heavier and he was getting older. Mr. Jensen said he was sorry he could not handle the work any longer. The claimant said he “thought (he) needed to be going” but never mentioned any problems to the employer such as with the trucks or the ice before leaving.

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.

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. 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(1). 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. While the claimant listed several concerns about his employment, the main items of contention were the lack of heat in the white truck, the steering in the red truck and the ice in the parking lot. Although all those things, especially the ice, may have happened on one or two occasions, the claimant did not complain or ask the employer to address his concerns about the truck and the mechanic that worked on the trucks found them to be in good working order. When the employer did learn of the problems it had them corrected immediately. The ice, on the other hand, was a statewide problem from government buildings to school buildings to grocery stores to other business' parking lots and the continual precipitation made it very difficult for those institutions or businesses to keep up with the snow and ice removal. When the claimant told Mr. Jensen he was quitting he stated he could no longer handle the work. He did not talk about the trucks or the ice. Under these circumstances the administrative law judge cannot conclude that the claimant's leaving rises to the level of good cause attributable to the employer as defined by Iowa law. Therefore, benefits are denied.

DECISION:

The January 24, 2008, reference 06, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjscss