

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT B WEAVER**  
Claimant

**APPEAL NO. 12A-UI-09892-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARROLL'S INC**  
Employer

**OC: 08/21/11  
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated August 13, 2012, reference 03, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on September 10, 2012. The claimant participated personally. The employer participated by Mr. James Carroll, Company President.

**ISSUE:**

At issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Robert Weaver was employed by Carroll's Trucking Inc. from September 21, 2011 until July 19, 2012 when he voluntarily left employment. Mr. Weaver was employed as a full-time local tractor trailer driver and was paid by the hour. His immediate supervisor was the company owner, James Carroll.

Mr. Weaver left his employment with Carroll's Trucking Inc. on July 19, 2012 when he called the company owner stating that he would no longer be able to drive a truck for the company due to his medical condition and stating that he would turn in his company equipment that day.

Mr. Weaver had been off work intermittently due to health problems and had been recently off work approximately one week because of high blood pressure and related medical issues. Mr. Weaver was informed that because of the nature of his medical maladies it would be necessary for him to provide a doctor's note verifying that he was able to return to his truck driving duties. After conferring with his physician Mr. Weaver concluded that he would not be able to return to truck driving and therefore relinquished his position with the company. Mr. Weaver did not request a change to different duties or request a leave of absence.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left 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.

871 IAC 24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

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. In general a voluntary quit requires evidence of intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. EAB, 492 N.W. 2d 438 (Iowa 1992).

An individual who voluntarily leaves their employment must first give notice to the employer of their reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

In this matter Mr. Weaver left employment by voluntarily indicating to the employer that he would be able to return as a truck driver and offering to return company equipment and cleaning out his truck. The claimant did not seek an accommodation by requesting other work and did not request a leave of absence. The evidence in the record establishes that the claimant's

medical condition was a non-work-related illness or injury and the employer was under no obligation to allow the claimant to return to work without a full release from his physician.

While Mr. Weaver's decision to leave employment was for good personal cause, it was not good cause attributable to the employer. Therefore, unemployment insurance benefits are withheld.

**DECISION:**

The representative's decision dated August 13, 2012, reference 03, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld 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.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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