

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIEL J SIMPSON
Claimant

HEYL TRUCK LINES INC
Employer

APPEAL 21A-UI-06118-ED-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/26/20
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the February 16, 2021, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 3, 2021. The claimant, Daniel Simpson, participated personally. The employer, Heyl Truck Lines Inc., participated through Mary Clark, Human Resources Manager. No exhibits were received.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed full-time as a truck driver beginning June 11, 2018. Claimant is still employed with the employer. Claimant's immediate supervisor is Mitch Carey. On April 28, 2020, claimant was notified that he was going to be placed on furlough beginning April 29, 2020 due to lack of work. Claimant was called back to work on June 1, 2020. Claimant has been working his regular schedule since June 1, 2020. Claimant received no pay for his employer during the April 29, 2020 – June 1, 2020 furlough.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to lack of work. Benefits are allowed.

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(1) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

b. Interpretation of ability to work. The law provides that an individual must be able to work to be eligible for benefits. This means that the individual must be physically able to work, not necessarily in the individual's customary occupation, but able to work in some reasonably suitable, comparable, gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides.

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

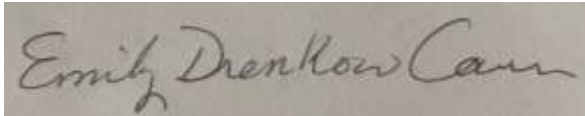
(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of

services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The employer advised the claimant that he would be furloughed due to a lack of work from April 29, 2020 until May 31, 2020. Claimant was able to and available for work during that time period. Claimant received no pay. As such, the claimant established that he was able to and available for work. Benefits are allowed effective April 29, 2020 and continuing until May 31, 2020.

DECISION:

The February 16, 2021 (reference 01) unemployment insurance decision is reversed. The claimant was able to work or available for work and on a lay off due to lack of work effective April 29, 2020 through May 31, 2020. Benefits are allowed effective April 29, 2020 and continuing until the lay-off ended on May 31, 2020.



Emily Drenkow Carr
Administrative Law Judge

May 17, 2021
Decision Dated and Mailed

ed/kmj