

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN P KENNY**  
Claimant

**APPEAL NO. 08A-UI-06794-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**  
Employer

**OC: 06/22/08 R: 12**  
**Claimant: Appellant (5)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

John P. Kenny (claimant) appealed a representative's July 16, 2008 decision (reference 01) that concluded he was not qualified to receive benefits, and the account of Heartland Express Inc. of Iowa (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 11, 2008. The claimant participated in the hearing. Leah Peters, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on August 21, 2002. The claimant worked as a full-time over-the-road driver. He was dispatched from the Richmond, Virginia center.

Starting in early 2008, the claimant asked his Richmond center supervisor and the Cleveland center supervisor if he could transfer to Cleveland, Ohio center. The claimant wanted to transfer to be closer to his mother who has health issues. The claimant learned that if he transferred to Cleveland, he would take a reduction in his pay. The claimant's Richmond supervisor told the claimant he would not be transferred because the Richmond center considered him a good driver and did not want to lose him. The claimant did not contact the corporate office about a transfer.

On June 13, the claimant delivered a load in Delaware. After making the Delaware delivery the claimant declined a load that was to be delivered that day in Pennsylvania. The claimant drove the truck to his residence in North Carolina and cleaned out his truck. The employer had not authorized the claimant to travel to his North Carolina home.

On Sunday, June 15, the claimant went back to the Richmond center and gave the truck keys to the person on duty. The claimant then moved to the Cleveland, Ohio area.

### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code §§ 96.5-1, 2-a.

The evidence establishes the claimant wanted to relocate to the Cleveland, Ohio area and his Richmond, Virginia supervisor discouraged this move and did nothing to help the claimant relocate. The claimant understood, the Richmond supervisor would not allow him to transfer. Since the Richmond supervisor did not want the claimant to transfer, it is difficult to understand why anyone at that center told the claimant he would not be assigned anymore loads after he made the Delaware delivery. The employer's computer system that is located in the truck did not support the claimant's testimony. The truck computer system indicated that after the claimant made the Delaware delivery, the employer asked the claimant to make a delivery in Pennsylvania that the claimant declined. Also, it does not make any sense that the claimant was able to move or relocate to the Cleveland, Ohio area on Sunday, June 15, without any advance planning. Finally, the claimant asserted he received written warnings about late deliveries or other performance issues, but the Peters found no record of any such warnings in the employer's computer system. A warning would have been in the computer system if the claimant received any written warning. Based on the above inconsistencies and lack of common sense, the claimant's testimony is not credible. Therefore, his contention that the employer discharged him on June 13 by telling him the employer would not assign him anymore loads is not credible.

A preponderance of the credible evidence establishes the claimant voluntarily quit his employment on June 15 when he turned in the keys to his truck that he had cleaned out over the weekend. When a claimant quits he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa code § 96.6-2.

The law presumes when a claimant relocates, he quit for reasons that do not qualify him to receive benefits. 871 IAC 24.25(2). The claimant wanted to transfer to the Cleveland, Ohio area to be closer to his mother. Since the claimant accepted a job in the Richmond, Virginia area, and worked almost six years, the employer had no legal obligation to transfer him to another center.

The claimant quit his employment so he could be closer to his mother who has health issues. While the claimant established compelling personal reasons for quitting, he quit for reasons that do not qualify him to receive benefits. As of June 22, 2008, the claimant is not qualified to receive benefits.

### **DECISION:**

The representative's July 16, 2008 decision (reference 01) is modified, but the modification has no legal consequence. The employer did not discharge the claimant. Instead, the claimant quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 22, 2008. This

disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css