

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ROBERT E JONES
PO BOX 405
STATE CENTER IA 50247

RUAN TRANSPORT CORP
c/o TALX EMPLOYER SERVICES
PO BOX 1160
COLUMBUS OH 43216 1160

NUNC PRO TUNC
Appeal Number: 06A-UI-01365-DWT
OC: 12/18/05 R: 02
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Ruan Transport Corporation (employer) appealed a representative's January 25, 2006 decision (reference 01) that concluded Robert E. Jones (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 21, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Tim Laffoon, the terminal manager, 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 unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on November 5, 2004. The claimant worked as a truck driver. The claimant worked until March 15, 2005. The claimant quit in March 2005 because he had personal issues he needed to address.

The employer rehired the claimant on July 25, 2005. The employer dispatched the claimant to make a delivery on October 11, 2005. On October 10, 2005, the claimant called the employer to report he had blown a tire in Denver and could be two to three hours late in making the October 11 delivery. The claimant did not make the October 11 delivery.

On October 12, the claimant called the employer because the claimant needed fuel and the employer shut down his fuel card when the employer could not contact him on October 11. The claimant then admitted he was in Albuquerque, New Mexico, because his aunt had passed away and he was experiencing marital problems. The claimant made the delivery two days late on October 13. The employer discharged the claimant for failing to make a delivery on time and misrepresenting the reason for the late delivery.

The claimant established a claim for unemployment insurance benefits during the week of December 18, 2005. The claimant filed a claim for the week ending December 24, 2005. He received \$324.00 in benefits for this week.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The claimant voluntarily quit his employment on March 15, 2005, for personal reasons that would not qualify him to receive unemployment insurance benefits. The employer discharged the claimant on October 13, 2005.

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's failure to make a delivery on time by misrepresenting the reason he would be late on October 11 and then failing to contact the employer at all on October 11 when he did not make the scheduled delivery shows conduct that intentionally and substantially disregards the

employer's interests. The employer discharged the claimant for committing work-connected misconduct in mid-October 2005. As of December 18, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the week ending December 24, 2005. The claimant has been overpaid \$324.00 in benefits he received for this week.

DECISION:

The representative's January 25, 2006 decision (reference 01) is reversed. On October 13, 2005, the employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of December 18, 2005. 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. The claimant is not legally entitled to receive benefits for the week ending December 24, 2005. The claimant has been overpaid and must repay \$324.00 in benefits he received for the week ending December 24, 2005. However, this overpayment has already been set up on a separate issue.

dlw/tjc/kjw