

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

JAMES K MCMEEKIN  
815 E RUSHOLME ST  
DAVENPORT IA 52803

AMHOF TRUCKING INC  
651 N 6<sup>TH</sup> AVE  
PO BOX 285  
ELDRIDGE IA 52748-0285

Appeal Number: 06A-UI-00746-JTT  
OC: 12/11/05 R: 04  
Claimant: Appellant (4)

**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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)(a) – Voluntary Quit  
871 IAC 24.25(38) – Discharge During Notice Period

STATEMENT OF THE CASE:

Claimant James McMeekin filed a timely appeal from the January 13, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 20, 2006. Mr. McMeekin participated. Safety Director Carol Millam represented the employer. Upon the request of the parties, the administrative law judge took official notice of the Agency administrative file.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: James McMeekin was employed by Amhof Trucking Company as a full-time over-the-road truck driver from June 28, 2005, until December 12, 2005. On December 12, 2005, Mr. McMeekin

advised the employer via the employer's satellite communication system that he intended to quit the employment when he returned to Iowa. Mr. McMeekin intended to quit the employment due to dissatisfaction with the employment and due to health concerns that had arisen during his last trucking run. The health condition was not caused or aggravated by the employment, and a licensed and practicing physician had not recommended that Mr. McMeekin quit the employment.

At the time Mr. McMeekin advised the employer of his intention to quit, he was in Hot Springs, South Dakota, with the employer's truck and trailer. On the trailer was a customer's load that was overdue for delivery. In the days leading up to December 12, Mr. McMeekin had experienced some weather-related delays, had placed his desire to visit his son in Montana ahead of the employer's interests in making timely pickups and deliveries, and had experienced health concerns that prompted him to seek attention at a Veterans Administration hospital. On December 12, the employer was concerned about Mr. McMeekin's communications with the employer, concerned for its equipment, concerned for its customer's property, and concerned about its ability to meet its obligations to its customers.

On December 12, after Mr. McMeekin advised the employer of his intention to quit, the employer contacted the Hot Springs, South Dakota Police Department and requested that the law enforcement agency seize the employer's truck. The truck was seized and Mr. McMeekin remained in Hot Springs without transportation home. Mr. McMeekin arranged alternative transportation and made it back home to Davenport on December 19, 2005. The employer delivered Mr. McMeekin's last assigned load to its destination on December 16, 2005.

On November 16, 2005, the employer had reprimanded Mr. McMeekin for late deliveries. At that time, Mr. McMeekin indicated his disappointment in not receiving a raise and threatened to quit.

#### REASONING AND CONCLUSIONS OF LAW:

The first question for the administrative law judge is whether the evidence in the record establishes that Mr. McMeekin quit or was discharged from the employment.

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 requires evidence of an 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 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

A claimant is considered to have left employment voluntarily without good cause attributable to the employer if the claimant gave the employer notice of intention to resign and the employer accepted the resignation. See 871 IAC 24.25(37). Where a claimant gives the employer advance notice of resignation which causes the employer to discharge the claimant prior to the

proposed date of resignation, no disqualification will be imposed from the last day of work until the proposed date of resignation but benefits will be denied effective the proposed date of resignation. See 871 IAC 24.25(38).

Quits prompted by a dissatisfaction with the wages, where the claimant knew the rate of pay when hired, are presumed to be without good cause attributable to the employer. See 871 IAC 24.25(13). Quits prompted by dissatisfaction with the work environment are also presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21). Quits prompted by illness not caused or aggravated by the employment are presumed to be without good cause attributable to the employer if the quit is not based upon the advice of a licensed and practicing physician. See 871 IAC 24.25(35).

The evidence in the record indicates that Mr. McMeekin voluntarily quit the employment, but was discharged during the notice period. The evidence in the record establishes that Mr. McMeekin submitted his resignation on December 12, 2005. The evidence indicates that Mr. McMeekin intended to quit the employment upon his return to Iowa, due to dissatisfaction with the employment and due to health concerns that arose during his last trucking run. The evidence indicates that the health concerns were not caused or aggravated by the employment and the quit was not based upon the advice of a licensed and practicing physician. The evidence indicates that the employer accepted Mr. McMeekin's resignation and responded by seizing its truck and discharging Mr. McMeekin from the employment prior to the effective quit date. Mr. McMeekin's effective quit date was December 19, the day he arrived back in Iowa.

Based on the facts in evidence and the law cited above, the administrative law judge concludes that Mr. McMeekin voluntarily quit the employment without good cause attributable to the employer effective December 19, 2005. Accordingly, Mr. McMeekin is disqualified for benefits as of December 20, 2005, and will continue to be disqualified for benefits until he has worked in and earned wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Because the employer discharged Mr. McMeekin prior to the effective date of his quit, Mr. McMeekin is eligible for benefits for the period of December 12-19, 2005, and the employer's account may be assessed for those limited benefits.

#### DECISION:

The Agency representative's January 13, 2006, reference 01, decision is modified as follows. The claimant voluntarily quit without good cause attributable to the employer effective December 19, 2005. Effective December 20, 2005, the claimant is disqualified for benefits until he has worked in and earned wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is eligible for benefits for the period of December 12-19, 2005 and the employer's account may be assessed for those limited benefits. The employer's account will not otherwise be charged.

jt/kjw