

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VERNON A HILL
Claimant

APPEAL 17A-UI-07628-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ASCHENBRENNER TRUCKING INC
Employer

**OC: 06/25/17
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 18, 2017, (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on August 14, 2017. Claimant participated. Employer participated through office manager Sharon Sedore and Michelle Aschenbrenner.

ISSUE:

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 was employed as a full-time over-the-road driver paid a range of 25 to 27 percent of the net load from April 2014, through January 14, 2017. His last day driving was January 5, 2017, when he put in his notice of intent to quit the employment. The sole reason he gave for quitting was to return to Missouri to care for his father who had been hospitalized. He was not assigned any loads thereafter. He stayed at the drivers' lounge for a week and a half but did not work.

At hearing claimant added reasons for the separation. First, the employer kept his final paycheck and had been deducting money from each paycheck since December 2015, to cover insurance policy deductible amounts for property damage related to accidents claimant had in March 2015, February 12, 2016, and March 31, 2016. In May 2016, claimant questioned payroll clerk Crystal Aschenbrenner (Crystal), the owner's daughter, about the deductions. She said owner Michael Aschenbrenner (Michael) had instructed her to do so. She and Sedore suggested he speak to Michael. When asked, Michael told claimant he was going to have funds deducted whether claimant authorized it or not. Claimant did not press the matter further or contact the Iowa Division of Labor about his concerns.

Secondly, claimant was concerned because he believed the employer did not have workers' compensation insurance on him as a driver. It did obtain such coverage on drivers in 2015, after claimant began the employment.

A third reason for quitting was because Michael regularly called him “stupid” in 2016. The last time was in November 2016, when claimant said he did not know about truck clutches. An earlier instance involved Michael asking claimant a question about trucks and claimant told him the answer. Michael did not believe him and called him “stupid” but later verified the information with friends and apologized to claimant.

A fourth point given for leaving was that he did not get compensation for performing mechanical work on the truck while on the road. He recalled a blown radiator hose sometime in 2016. Michael told him he could be reimbursed for parts but was not because the work and date did not match the logbook. Another similar point of contention was not being paid for down time hours in the shop when there were no loads to assign. The employer does not require drivers to stay or work in the shop during downtime and what drivers do between loads in their downtime is within their discretion.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant’s separation from the employment was 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.

Iowa Admin. Code r. 871-24.25 provides, in pertinent part:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

(22) The claimant left because of a personality conflict with the supervisor.

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

While the employer has the burden to establish the separation was a voluntary quitting of employment rather than a discharge, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). “Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Where a claim gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep’t of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Neither party had reliable information about dates and details of incidents, but given the stale estimated dates of the complaints, the claimant acquiesced to them by not following up with the owner or a regulating agency, or quitting earlier when they arose. Specifically, claimant was covered by workers' compensation insurance for the last two years of employment. He could have verified this information with the Iowa Division of Workers' Compensation upon or before hire. Since claimant did not contact the Iowa Division of Labor about his wage and hour dispute with the employer, there has been no determination pursuant to Iowa Code section 91A.5 about the deductibility of damage claims from his wages, not being paid for hours worked in the shop during down time, not being paid for repairs made on the road, and not being reimbursed for parts. Thus, considering all reasons given for the separation, while claimant's leaving the employment may have been based upon good personal reasons, he did not establish any good-cause reason attributable to the employer according to Iowa law.

DECISION:

The July 18, 2017, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

NOTE: In the fact-finding interview claimant noted a hold on his commercial driver's license (CDL) and that he cannot drive in Arizona. That information would raise a question of claimant's ability to and availability for work in the event benefits are allowed on appeal.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs