

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CORNELIUS A DRISCOLL**  
Claimant

**APPEAL NO. 10A-UI-04030-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**  
Employer

**OC: 01/31/10**  
**Claimant: Appellant (1)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The claimant, Cornelius Driscoll, filed an appeal from a decision dated March 3, 2010, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 29, 2010. The claimant participated on his own behalf. The employer, Heartland Express, participated by Human Resources Representative Dave Delmasso and Benefits Coordinator Kim Reynolds.

**ISSUE:**

The issue is whether the claimant quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

Cornelius Driscoll was employed by Heartland from June 25, 2003 until January 16, 2010, as a full-time over the road truck driver. He requested two weeks of vacation beginning December 19, 2009, and this was granted. On the day he was scheduled to return to work he contacted his fleet manager and said he was sick and would not be able to work.

The employer's payroll system is set up to automatically terminate any employee who has not worked for a least 15 days. By the time the claimant called back on January 6, 2010, to request a truck, it had been more than 15 days. The worker at truck control told him on that day it looked as if he had been fired but there was no truck for him in any event. The worker told him to call back on January 8, 2010, which he did. As of that date there was still no truck available and he was told to call back on January 11, 2010. He could not get through that day and did not call again until January 15, 2010, to talk to the terminal manager but he was unavailable and did not call back.

By this time the employer's insurance carrier had been notified of the claimant's automatic termination after 15 days of not working. It automatically issued a letter explaining the claimant's COBRA benefits on January 13, 2010, which he received some time later. He did not continue to contact the tractor control for a truck, nor his fleet manger nor the human resources department. It is not uncommon for drivers to be automatically separated because of not driving for 15 days but they are automatically reinstated once they make the appropriate contact.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. *LaGrange v. IDJS*, (Unpublished, Iowa App. 1984). The administrative law judge finds the reasoning in that case to be persuasive. The claimant was revolved out of the system because he did not return to work as scheduled from vacation, but he could have continued working had he contacted payroll, human resources, the terminal manager or the fleet manager to resolve the situation. If he had been fired effective January 5, 2010, the tractor control department would not have kept telling him to call back to get a truck. The record establishes the claimant quit without good cause attributable to the employer and benefits are withheld.

**DECISION:**

The representative's decision of March 3, 2010, reference 01, is affirmed. Cornelius Driscoll is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs