IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

DAVID C DEIKE
Claimant

SHEEHY MAIL CONTRACTORS INC
Employer

APPEAL NO: 15A-UI-03310-ET

ADMINISTRATIVE LAW JUDGE DECISION

OC: 12/14/14
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 5, 2015, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on April 28, 2015. The claimant participated in the hearing with Attorney Erin Patrick Lyons. Anita Ostergard, Human Resources Director, and Steve Fisher, Recruiter/Safety Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time local driver for Sheehy Mail Contractors from January 27, 2015 to January 28, 2015. He voluntarily left his employment because he believed at the time of hire he would be running a day shift route that would allow him to work 11 hours per day. He thought he would work the first leg of a route to Atlanta which would have resulted in his working 11 hours per shift. Instead, he was instructed to run the Chicago night route where one of the employer's drivers from Chicago met the claimant in Dixon, Illinois and they swapped trailers before the claimant returned to Waterloo. The employer's Waterloo facility only runs the Dixon, Illinois route. The Atlanta route only runs out of Des Moines. The trip between Dixon, Illinois and Waterloo is an eight hour run.

On his last night of work, January 28, 2015, the claimant told his trainer he was voluntarily leaving his job with the employer because he did not want to work the night shift. He was driving the 12:00 a.m. to 8:00 a.m. shift. The only other shift the employer ran was another route to Dixon, Illinois that left at 12:15 a.m. and returned to Waterloo at 8:15 a.m. The claimant told his trainer that he needed a day shift job because the hours were interfering with his sleep pattern.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

Iowa Code § 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 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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

While the claimant maintains the terms of his contract of hire were changed after he started his new employment and worked two days, the employer denies his charges. The claimant stated the employer offered him the first leg of the Atlanta route, which would have given him 11 hours per shift, but the employer does not run that route out of the Waterloo facility. The only route the Waterloo drivers run is an eight-hour round trip to Dixon, Illinois. Although there may have been a misunderstanding about what route the claimant would be driving, the administrative law judge is not persuaded the employer told the claimant he would be driving the Atlanta route when the Waterloo facility does not drive that route because the Des Moines facility is the only branch of the employer in Iowa that makes that trip. Consequently, it follows that the employer would not have told the claimant he would be working 11 hours per shift when the Dixon, Illinois trip is eight hours per shift.

The claimant indicated to his trainer that he was leaving because he did not want to work the night shift. The claimant stated he and the employer did not discuss what hours he would be working during the interview and hiring process but he assumed the job would be on the day shift. The employer credibly testified that at the time of hire he made it clear to the claimant he would be driving on the night shift as the only routes the employer runs are the one the claimant worked, from 12:00 a.m. to 8:00 a.m. or 12:15 a.m. to 8:15 a.m. The claimant did not tell his trainer at the time of his voluntary leaving he was quitting because he was not getting 11 hours per shift but rather stated it was due to the night shift work interfering with his sleep pattern.

Under these circumstances, the administrative law judge must conclude the claimant has not demonstrated that his leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The March 5, 2015, reference 02, decision is affirmed. The claimant voluntarily left his 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.

_____
Julie Elder
Administrative Law Judge

_____
Decision Dated and Mailed

je/can