

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

MICHAEL A BLATTNER
2008 - 8TH ST SW
CEDAR RAPIDS IA 52404-5502

CEDAR VALLEY TRANSPORT
1112 29TH AVE SW
CEDAR RAPIDS IA 52404-3409

Appeal Number: 06A-UI-03609-JTT
OC: 04/24/05 R: 03
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
Section 96.3(7) - Recovery of Overpayment

STATEMENT OF THE CASE:

Cedar Valley Transport filed a timely appeal from the March 22, 2006, reference 07, decision that allowed benefits. After due notice was issued, a hearing was held on April 18, 2006. Claimant Michael Blattner did not participate. President Larold Witt represented the employer. Exhibit One was received into evidence.

The claimant contacted the administrative law judge after the record had been closed and the employer dismissed, but did not provide good cause to reopen the record. During the late call, Mr. Blattner uttered a series of falsehoods. Mr. Blattner advised the administrative law judge that he had called the Appeals Section shortly after receiving the notice of the hearing, had been provided with a control number, but did not have the control number available to him. Mr. Blattner further indicated he had been “on standby” to speak with the administrative law

judge for several minutes before he spoke with the administrative law judge at 10:17 a.m. The administrative law judge advised Mr. Blattner that his assertions were not credible. Immediately following the call from Mr. Blattner, the administrative law judge spoke with the entire clerical staff responsible for phone calls from parties and learned that Mr. Blattner *first* contacted the Appeals Section in response to the hearing notice at 10:16 a.m. on the date of the hearing and spoke with clerical assistant V.Z. Mr. Blattner advised V.Z. that he did *not* have a control number and had assumed the Agency would just contact him at the number he had provided for the fact-finding interview.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Michael Blattner was employed by Cedar Valley Transport as a full-time truck driver from January 31, 2006 until March 7, 2006, when he voluntarily quit. At the time of hire, the employer assured Mr. Blattner that he would be home every weekend. During the short period of his employment, Mr. Blattner was in fact home every weekend. On March 7, Mr. Blattner advised the employer that he was "forced to tender" his resignation. Mr. Blattner provided no other reason for his quit.

Mr. Blattner established an "additional claim" for benefits that was effective March 5, 2006, and received \$310.00 in benefits in connection with the additional claim.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Blattner's voluntary quit was for good cause attributable to the employer. It does not.

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.

The evidence in the record establishes that Mr. Blattner voluntarily quit the employment. The evidence in the record fails to establish any misrepresentation on the part of the employer regarding the type of work to be performed. See 871 IAC 24.26(23). Nor does the record reflect any intolerable or detrimental working conditions or any change in the conditions of the employment. See 871 IAC 24.26(4) and (1). Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Blattner's voluntary quit was without good cause attributable to the employer. Accordingly, Mr. Blattner is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account will not be charged for benefits paid to Mr. Blattner.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The \$310.00 Mr. Blattner received in connection with the additional claim for benefits constitutes an overpayment. Mr. Blattner must repay that amount to the Agency.

DECISION:

The Agency representative's decision dated March 22, 2006, reference 07, is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged. The claimant is overpaid \$310.00.

jt/kkf