

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREW LIBERTUCCI
Claimant

APPEAL NO: 10A-UI-07422-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 04/18/10
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Andrew Libertucci (claimant) appealed an unemployment insurance decision dated May 12, 2010, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Heartland Express Inc. of Iowa (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 22, 2010. The claimant participated in the hearing. The employer participated through Lea Peters, Human Resources. Claimant's Exhibits A, B, and C were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time over-the-road truck driver from August 15, 2007 through April 9, 2010. He switched from the system division to a regional driver position on December 7, 2007. A regional driver gets paid less but they are home more often than an over-the-road truck driver. At the time the claimant transferred to a regional driver position, he signed a declaration form which addressed his general running area, mileage and home time. Regional drivers are home an average of three out of four weekends but the actual home time may vary and the employer does not guarantee drivers will be home three weekends out of four, since it depends on the merchandise that is being delivered. The declaration form also covered the pay package and lists the driver's requirements. Regional drivers are asked to deliver outside of their regions but it is the exception rather than the rule.

The claimant was frustrated over the last couple of years since he was not getting home as often as he liked. Throughout 2009 and 2010, there were several examples of when he was away from home from nine to 20 days. He testified he tried to talk to the employer about getting

home for the weekends but he said the employer was unable to do anything for him. The claimant's last day of work was April 8, 2010 and he was sick with food poison after that. He called the employer on April 22, 2010 and spoke with Lea Peters in Human Resources. The claimant explained that he was quitting because he was not getting home enough on the weekends. Ms. Peters asked the claimant if he would consider staying if she could work with his issues. The claimant said he wanted to be home every weekend and Ms. Peters said she could not do that but she could work with him to see that he was home as often as he could be. The claimant did not allow Ms. Peters the opportunity to assist him and quit instead.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit his employment on April 22, 2010 because he was not getting home as often as he wanted. Although the regional drivers do get home more often, there is no guarantee as to how often that time is. The human resources department was willing to work with the claimant to get him home more often but he chose to quit instead.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated May 12, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs