

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL OLSEN
Claimant

APPEAL NO. 08A-UI-11383-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAX MORGAN MOTOR FREIGHT LLC
Employer

**OC: 02/24/08 R: 03
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 26, 2008, reference 07, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on December 17, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Clint Feuerbach participated in the hearing on behalf of the employer with a witness, Chris Bishop. Exhibit A was admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as an over-the-road truck driver from April 16 to October 31, 2008. His supervisors were Clint Feuerbach and Chris Bishop. When the claimant was hired, he was informed that the employer operates nationwide and drivers would be out on the road 6 to 14 days. In describing the routes to the claimant, Feuerbach and Bishop explained that one of the main routes generally takes about a week, but the claimant was not guaranteed that he would not be out on the road for more than seven days.

The claimant had routes where he was out over seven days in August, September, and October as follows: August 29 to September 8 (10 days), September 16 to 29 (14 days), October 3 to 17 (15 days), and October 21 to 31 (11 days).

The claimant's final route started October 21. He drove from Cedar Rapids to Laredo, Texas, then from Laredo to Fogelsville, Pennsylvania. He got to Fogelsville on October 28 and unloaded on October 29. He called the dispatch on October 30 and was informed that there was no load back to Iowa at that time. The claimant was willing to wait another day for a load but was convinced the employer was going require him to layover longer and he had already been out on the road too long. He told the employer that if was not routed back to Cedar Rapids, he was going to lock the truck, leave it at a truck stop, and take a bus back.

Because of the claimant's threat to leave the truck, the employer told him to return to Cedar Rapids without a load. The claimant came back to Cedar Rapids on October 31, 2008. He was upset because the employer had charged him for fuel back to Cedar Rapids on his settlement paperwork, which was based on the employer's guidelines for reimbursement for fuel because he had driven back without a load. The employer tried calling the claimant on November 3, 2008. The claimant returned the call and left a message that he was quitting.

Feuerbach, the claimant, and the owner, Todd Phillips, met on November 7, 2008. The claimant insisted that he only be out on the road for no more than 7-10 days, the employer responded that it could not guaranteed this, and the claimant ended his employment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment 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.

The crux of this case is whether the claimant was guaranteed that he would not be out on the road for over seven days. As shown in the findings, he was informed that drivers would be out on the road 6 to 14 days. When the routes were explained, he was told one of the main routes generally takes about a week, but he was not guaranteed that he would not be out on the road for more than seven days. I believe the fuel deduction for returning from Pennsylvania without a load was authorized by the employer's guidelines. He quit without good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated November 26, 2008, reference 07, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw