IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

JAMES C GRISSOM
Claimant

HEARTLAND EXPRESS INC OF IOWA
Employer

APPEAL NO. 09A-UI-07740-JTT

ADMINISTRATIVE LAW JUDGE DECISION

Original Claim: 04/12/09
Claimant: Appellant (2)

Iowa Code section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

James Grissom filed a timely appeal from the May 12, 2009, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on June 12, 2009. Mr. Grissom participated. Dave Dalmasso, Human Resources Representive, represented the employer and presented additional testimony through Cliff Chapman, Operations Manager. Exhibits A and B were received into evidence.

ISSUE:

Whether Mr. Grissom's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: James Grissom was employed by Heartland Express Incorporated of Iowa as a full-time semi-truck driver from November 5, 2003 until April 24, 2009, when he voluntarily quit. Mr. Grissom had a dedicated route assignment from 2004 until November 2008, when the client no longer provided enough loads to support a dedicated route. While Mr. Grissom was on the dedicated route, he could count on being home every weekend. In November 2008, Mr. Grossom became a regional driver assigned to haul loads in several Midwestern states. Though the regional drivers were generally home three out of four weekends, Mr. Grissom asserted the need to be home every weekend. Mr. Grissom had a standing request to be home Thursday evening, which usually resulted in Mr. Grissom getting home on Friday morning. Mr. Grissom would then leave home to collect his next load on Sunday.

At the beginning of 2009, the number of loads the employer had for Mr. Grissom decreased. Mr. Grissom was paid by the mile. As a dedicated route driver, Mr. Grissom drove 2,300 miles per week. As of the beginning of 2009, Mr. Grissom's miles as a regional driver ranged from 1,000 to 2,400 per week. In March 2009, the amount of work decreased further. During April 9-18, the employer had no work at all for Mr. Grissom. From April 19-23, Mr. Grissom worked 22 hours. Mr. Grissom then waited 26 hours for a new load before dispatch told him the employer would not have a new load for him until Sunday, April 26, and that Mr. Grissom would

have to sit and wait for the load, rather than go home for the weekend. Mr. Grissom was no longer generating enough income to receive a paycheck.

Mr. Grissom established a claim for unemployment insurance benefits that was effective April 12, 2009. The claim for benefits was established during the period when the employer had no work at all for Mr. Grissom.

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.

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.

871 IAC 24.26(1) provides:

> Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:
>
> (1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Dept. of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. Id. An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa Ct. App. 1990).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The weight of the evidence indicates both significant changes in the conditions of employment and intolerable working conditions. The evidence indicates a final reduction in hours during the latter part of April that reduced Mr. Grissom's take-home pay to zero and made it impossible for Mr. Grissom to continue in the employment. In addition, the evidence indicates extended unpaid layovers where Mr. Grissom was away from home while he waited for the employer to come up with a load for him to haul. The situation in April was not normal for a regional over-the-road truck driver. Mr. Grissom's desire to be home for the weekend did not cause the decreased number of loads or decreased miles.

Mr. Grissom voluntarily quit the employment for good cause attributable to the employer. Accordingly, Mr. Grissom is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Grissom.

DECISION:

The Agency representative's May 12, 2009, reference 02, decision is reversed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw