

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA LOFSHULT
Claimant

APPEAL NO. 08A-UI-06595-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPEE-DEE DELIVERY SERVICE INC
Employer

**OC: 06/15/08 R: 01
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Pamela Lofshult (claimant) appealed an unemployment insurance decision dated July 9, 2008, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Spee Dee Delivery Service, Inc. (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 August 4, 2008. The claimant participated in the hearing. The employer participated through Ron Watson, State Operations Manager. Employer's Exhibits One and Two 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 her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time delivery driver from March 10, 2008 through June 10, 2008. Her last day of work was June 3, 2008, and she returned to the work facility that day with a possible pinched nerve in her neck. The employer offered to take her to the hospital but the claimant declined. Her husband called in to report her absences on June 5 and 6, 2008. The claimant failed to call or report to work after that date and the employer considered her to have voluntarily quit as of June 10, 2008. The claimant contends she quit because she felt unsafe in the vehicle. The van she typically drove had over 600,000 miles on it, but it had a new engine and other new equipment. The van did not have air conditioning and the claimant took issue with that. She testified that the driver's door fell off on one date and the power steering would not work on another date. When the claimant called the employer about the power steering problem, she was directed to take it to the nearest service station to have it fixed. Both the door and the power steering were fixed and there were no further problems with either. The claimant said she was told she would drive 350 to 400 miles a day but was more often driving 450 to 500 miles a day. On May 11 she drove 396 miles, 386

miles on May 15, and 449 miles on June 3, 2008. The claimant's route was one of the longer routes and she knew that at the time of hire. The employer was unaware of why the claimant quit her employment until it was revealed in the unemployment fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

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

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out when she stopped calling or reporting to work after June 7, 2008. She quit because she felt unsafe in the employer's vehicle but presented insufficient evidence to establish it was actually unsafe.

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

DECISION:

The unemployment insurance decision dated July 9, 2008, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw