

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HARRY L POWERS**

Claimant

**APPEAL NO. 09A-UI-08066-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**

Employer

**OC: 04/19/09**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.22(2)j(1)(2) – Leave of Absence

**STATEMENT OF THE CASE:**

Harry Powers filed a timely appeal from a representative's decision dated May 19, 2009, reference 01, which denied benefits based upon his separation from Heartland Express, Inc. After due notice, a telephone conference hearing was scheduled for and held on June 22, 2009. Claimant participated personally. The employer participated by Mr. Dave Dalmasso.

**ISSUE:**

At issue in this matter is whether the claimant voluntarily quit employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered the evidence in the record, finds: The claimant was employed as a full-time over-the-road tractor trailer driver for Heartland Express, Inc. of Iowa from August 10, 2005 until September 18, 2008, when he voluntarily left employment by failing to return after an approved leave of absence.

The claimant requested and was granted a medical leave of absence from June 23, 2008 until August 4, 2008. At the claimant's request, the medical leave of absence was extended to a full 12 weeks, ending on September 18, 2008. The claimant requested the medical leave of absence for the stated reason of providing medical support to his daughter, who was ill. Claimant's true reason was dissatisfaction with the company's ability to route him home on preferred days for personal doctor's appointments.

At the conclusion of the agreed upon medical leave of absence, the claimant chose not to return to available employment because of dissatisfaction with company routing. Mr. Powers was aware that the company has an open door policy which allows drivers to go up the chain of command if they feel that their dispatcher is not properly routing them. Although aware of the policy, the claimant did not exercise his right to complain about routing and any other dissatisfaction before leaving his employment without advance notice. Work continued to be

available to the claimant at the time that he chose to leave. Routing of company drivers is dependent on business needs and the ability of the company to make deliveries around driver's advance requests for time off.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left 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.

Iowa Code section 96.19-18-a provides:

18. "Employment".

a. Except as otherwise provided in this subsection "employment" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Employment also means any service performed prior to January 1, 1978, which was employment as defined in this subsection prior to such date and, subject to the other provisions of this subsection, service performed after December 31, 1977, by: . . .

871 IAC 24.22(2)j(1)(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

The evidence in the record establishes the claimant requested and was granted a medical leave of absence and this leave of absence was extended to a full 12 weeks at the claimant's request. Claimant was expected to return to work at the expiration of the leave of absence on or about September 18, 2008. Claimant chose not to return at that time, due to previous dissatisfaction with the company's routing policies. Although aware that he could go up the chain of command to complain about routing or any other dissatisfaction, the claimant did not do so. Work continued to be available to the claimant at the time that he voluntarily chose to leave employment. As reasonable alternatives were available to the claimant, he did not avail himself of them. Good cause for leaving attributable to the employer has not been shown. Benefits are denied.

**DECISION:**

The representative's decision dated May 19, 2009, reference 01, is affirmed. Claimant voluntarily quit employment and is disqualified from receiving unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, providing that he is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

srs/pjs