

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**KEITH R LITTLE**  
Claimant

**SCHNEIDER NATIONAL CARRIERS INC**  
Employer

**APPEAL 15A-UI-01413-H2T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/25/14**  
**Claimant: Respondent (1)**

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Iowa Code § 96.5(1) – Voluntary Leaving  
871 IAC 24.26(4) – Intolerable Working Conditions

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 21, 2015, (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 27, 2015. Claimant participated. Employer participated through Steven Gilbert, Fleet Manager. Employer's Exhibit One was entered and received into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an intermodal truck driver beginning on July 28, 2014 through January 8, 2015 when he voluntarily quit.

On December 1 the claimant transferred into a job where he would drive from Cedar Rapids to Chicago and back to Cedar Rapids each day. The claimant was to be home every single night. It was not unheard of that there would be occasional issues with a load or a truck that would require the claimant to spend the night out. The claimant ended up spending 14 nights out because of load problems, truck problems and safety issues. The claimant worked repeatedly with Mr. Gilbert, his contact, to get the loads lined up and the truck issues fixed. The claimant was not paid promptly for many issues including a \$700.00 dollar training pay that he earned in August but was not paid until December. There are days that he was stuck out on the road and was still not paid for those days.

The job simply was not what the claimant was promised. He was not home even most nights. He was not paid when he was promised he would be. Some of the communications issues while perhaps client issues, ended up costing the claimant pay and time at home.

The claimant did not quit for another job, but because the job and pay conditions were not what he was promised when hired.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code § 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 Admin. Code r. 871-24.26(23) 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:

- (23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

In the absence of an agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving employment. *Deshler Broom Factory v. Kinney*, 140 Nebraska 889, 2 N.W.2d 332 (1942). In general, a substantial pay reduction or 25 to 35 percent reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. EAB*, 433 N.W.2d 700 (Iowa 1988).

The administrative law judge is persuaded that the claimant was out many more than four days during his period from employment from December 1 to January 8. The claimant's own records show that he ended up out for 14 nights, about half of the time he worked, when he was told he would be home every single night. The claimant was not paid for all of the nights he spent out. Additionally, the employer's failure to get the truck fixed to properly coordinate the loads led to the claimant making much less money. Under these circumstances the administrative law judge concludes that the claimant voluntarily left his employment with good cause attributable to the employer.

**DECISION:**

The January 21, 2015 (reference 02) decision is affirmed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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