

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SEAN M KAISER
Claimant

TANTARA TRANSPORTATION
Employer

APPEAL 15A-UI-13203-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/01/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Sean Kaiser (claimant) filed an appeal from the November 20, 2015 (reference 01) unemployment insurance decision that denied benefits based upon the determination he voluntarily quit by refusing to continue working which is not a good cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on December 16, 2015. The claimant and his landlord Roger Gorgeny participated on his behalf. The employer participated through Safety Director Dave Riggan. Employer's Exhibit One was received.

ISSUE:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a Truck Driver beginning on January 7, 2015 and his last day worked was October 23, 2015. The claimant enjoyed his job when he first started. The claimant was assigned to a truck which he used at all times during his employment with the employer.

In July 2015, multiple incidents occurred. The claimant was sent for annual training with the National Guard for two weeks. Just before his annual training, the claimant had mechanical issues with his truck that might have allowed some carbon monoxide into the cab of his truck. The truck was repaired and in working order by the time he returned from training. One week after his training, the claimant began reporting to Fleet Manager and dispatcher Davis Schrock. The claimant believed Schrock did not assign him as many miles as his previous Fleet Manager and felt Schrock lied to him during their communications.

The week of October 23, 2015, there was a miscommunication between the claimant and Schrock about whether he was to bring a load back to Iowa with him from South Carolina or just drive back an empty trailer. The claimant believed Schrock had told him to return with the

empty trailer; however, when he and Schrock spoke, Schrock told him that he should have stayed in South Carolina and awaited assignment for a return load. The claimant drove back to the employer's facility in Iowa, removed his personal items from the truck, and left the key to the building in his truck.

On Monday, October 26, 2015, Safety Director Dave Riggan discovered the claimant's empty truck. He would normally expect the claimant to have his truck on the road and storing his personal items such as a pillow and blanket in the truck. He called the claimant and left three voice messages that day which were not returned. Riggan determined the claimant had quit his employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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. 871-24.25(21), (22), and (27) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

(27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant expressed his intention to quit and engaged in an overt act to carry out that intention when he returned the truck to the employer and emptied it of his personal belongings.

The claimant left his employment due to a dislike of the work environment and the personality conflicts he had with his supervisor. The average person in the claimant's situation would not find the work environment intolerable or detrimental. Given the stale dates of the complaints related to his truck's mechanical issues, they are not individually addressed as the claimant acquiesced to them by not quitting earlier when they arose. While the claimant's decision to leave his employment may have been based upon his own personal reasons, it was not for a good cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The November 20, 2015 (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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