

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSHUA E MINDER**  
Claimant

**APPEAL NO: 09A-UI-05954-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**  
Employer

**OC: 03/01/09**  
**Claimant: Respondent (2/R)**

Section 9 6.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Heartland Express Inc. of Iowa (employer) appealed a representative's April 10, 2009 decision (reference 02) that concluded Joshua E. Minder (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant's employment separation occurred for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 14, 2009. The claimant participated in the hearing. Dave Dalmasso, a human resource representative, and Kevin Kusner, a terminal manager, appeared on the employer's behalf. 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:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

**FINDINGS OF FACT:**

On July 8, 2008, the employer hired the claimant to work as a regional truck driver. During orientation, the employer informed the claimant about its policy that a driver's employment would be terminated if the driver was off work for more than 15 days. If the driver returned to work at a later date, his seniority status would begin with the new hire date. Even though the claimant received a copy of the employer's policy, he assumed he could be off work 30 days, which was his former employer's policy.

On February 9, 2009, the claimant informed the employer he needed a leave of absence. The claimant had pending personal issues he had to resolve. When the employer had not heard anything from the claimant since February 9, on February 25, the employer ended the claimant's employment because he been away from work for more than 15 days.

On February 26 or 28, the claimant contacted his old dispatcher and indicated he wanted to work as an over-the-road driver instead of a regional driver. The claimant was told to contact a

manager, which he did. The claimant then learned he needed to contact the employer's recruiting department to see if the employer would rehire him. The employer did not rehire him.

The claimant established a claim for benefits during the week of March 1, 2009. The claimant has filed for and received benefits since March 1, 2009.

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

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish a driver for the employer can be off work for any reason for 15 days and then return to work without any problems. In this case, the claimant was not eligible for Family Medical Leave; he just needed a leave of absence for personal reasons.

The law presumes a claimant has voluntarily left employment without good cause when he leaves for compelling personal reasons but he is gone more than ten days. 871 IAC 24.25(20). Since the claimant did not contact the employer prior to February 25 and the employer's policy informs drivers they cannot be gone from work for more than 15 days, for unemployment insurance purposes the claimant quit his employment. When a claimant quits, he has the burden to establish he leaves employment for reasons that qualify him to receive benefits. Iowa Code § 96.6-2. The facts show the claimant left for reasons that do not qualify him to receive benefits. The fact the employer did not rehire him is not an issue before the administrative law judge because the employment separation had already occurred. As of March 1, 2009, the claimant is not qualified to receive benefits.

Since the claimant received benefits after March 1, 2009, the issue of overpayment or whether the claimant is eligible for a waiver of any overpayment shall be remanded.

#### **DECISION:**

The representative's April 10, 2009 decision (reference 02) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment by being absent from work for compelling personal reasons for more than ten days. The claimant is disqualified from receiving unemployment insurance benefits as of March 1, 2009. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css