

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRUCE L GRANT**  
Claimant

**APPEAL NO: 13A-UI-09767-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GRAY TRANSPORTATION INC**  
Employer

**OC: 07/28/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's August 21, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing with his attorney, Joanie Grife. Darrin Gray, the president, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**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:**

The claimant started working for the employer in September 2010. The claimant worked full time as a local truck driver until he was injured at work. The claimant was off work from October 2012 through June 2013. When he was released to return to work in June 2013, the claimant had light-duty work restrictions.

With the claimant's light duty work restrictions, the employer did not have any work as a local driver for him. The employer could only accommodate the claimant's work restrictions if he worked as an over-the-road driver. The claimant agreed to work as an over-the-road driver even though he was out of town for weeks at a time and was paid by the mile instead of an hourly wage.

After the claimant was assigned a truck that had a broken seat, the claimant told his dispatcher, Becky, how much pain he had. The claimant went to the hospital for the shoulder pain he experienced. The claimant was off work for a while so the employer picked up the truck the claimant had been driving. A short time later, the claimant was dispatched to pick up a load in Davenport, Iowa. It took the employer two hours to get the claimant the keys to the truck.

At a rest stop by Davenport, the claimant's truck broke down. He called the employer to report this breakdown around 2 a.m. The employer tried to get the truck started, but it had to be towed away. The claimant was stuck at the rest stop for about 12 hours.

On July 18, the dispatcher assigned the claimant a load that he initially accepted. A few minutes after he accepted the load, the claimant called the dispatcher and declined the load because he quit. The dispatcher sent the employer an email after the claimant told her he quit. The dispatcher understood the claimant quit because his shoulder hurt too much and he did not want to get blamed for things that went wrong. When the claimant called the dispatcher back on July 18 and indicated he quit, she tried to transfer him to the owner, Leroy. This transfer was not successful.

The claimant waited to establish a claim for benefits until the week of July 28, 2013.

#### **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. A credibility issue must be decided in this case. Since the dispatcher did not participate at the hearing, the claimant's credibility must be compared to the employer's hearsay information.

The employer relied on the dispatcher's report that the claimant told her he quit on July 18. Since the dispatcher almost immediately sent the employer an email and tried to transfer the claimant to the owner as a result of her understanding the claimant quit, the facts indicate the dispatcher understood the claimant quit on July 18. Even though the claimant asserted he had not quit, his testimony about the differences in his job as a local driver and that as an over-the-road driver, the pain he experienced after driving a truck with a broken seat and his frustration on the last assignment where he had to stay at a rest stop for 12 hours, all indicate that he made comments to the dispatcher on July 18 that led her to believe he quit. After July 18, the claimant may have contacted the dispatcher about other loads. Since she understood he quit, no loads were assigned to him. The claimant's failure to contact the owner or Darrin Gray when he was not getting loads and knew the employer had loads for drivers, indicates the claimant did not take reasonable steps to continue his employment. Ultimately, the claimant's comments made in frustration, in addition to his failure to contact the owner or Darrin Gray after July 18 are factors that establish the claimant voluntarily quit his employment. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The claimant quit for personal reasons, but his reasons do not qualify him to receive benefits. As of July 28, 2013, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's August 21, 2013 determination (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 28, 2013. 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs