

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NATALIE J STIMPLE**  
Claimant

**APPEAL NO: 08A-UI-07974-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**US EXPRESS**  
Employer

**OC: 06/22/08 R: 02  
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

US Express (employer) appealed a representative's August 28, 2008 decision (reference 02) that concluded Natalie J. Stimple (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 23, 2008. The claimant participated in the hearing. Kelly McGraw appeared on the employer's behalf and presented testimony from one other witness, George VanderWoude. 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 for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started a three-day orientation to work for the employer as a team driver on April 17, 2008. She did not begin actually driving with a trainer until May 12. When she was hired it was with the understanding between herself and the employer's recruiter, as well as the claimant's fiancé who was working for the employer as a driver, that the two of them would be paired as a driving team and could expect to be paid for driving an average of 5,000 miles per week. She began driving with her fiancé on May 22, but was not upgraded to full team driver status until June 9.

During the weeks the claimant was driving with her fiancé, they were only driving and getting paid for approximately 2,000 miles per week, about the same as a solo driver. As both of them were out driving, they were paying substantial costs for child care that they had assumed would be offset by the increased pay for team driving. They made several inquiries to the employer regarding getting the additional miles as a team so that they could meet their other expenses but got no response. On June 27 they determined that they could not afford to have both of them on the road without the additional mileage pay, so they informed the employer that the claimant would end her driving but her fiancé would continue.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. A substantial change in contract of hire is recognized as grounds that are good cause for quitting that is attributable to the employer. 871 IAC 24.26(1).

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988); Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). There does appear to have been some lack of good communication both ways between the claimant and the employer, and the claimant was not overly patient in waiting in effect only three weeks for there to be an increase in the miles. However, given the prior understanding between the claimant and the employer’s representative when she was hired, the employer should have been prepared to implement the team driving mileage at the time the claimant qualified for team driving status on June 9. While the employer may have had a good business reason for not immediately implementing the mileage scale that had been offered, the failure to more promptly put that standard into operation was a substantial change in the claimant’s contract of hire or alternatively a failure to provide the work as represented at the time of hire. Dehmel, supra; 871 IAC 24.26(23). Benefits are allowed if the claimant is otherwise eligible.

**DECISION:**

The representative’s August 28, 2008 decision (reference 02) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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