

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KLYE W CARRIER**  
Claimant

**APPEAL NO. 08A-UI-02508-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DECKER TRUCK LINE INC**  
Employer

**OC: 02-03-08 R: 12  
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Leaving  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 11, 2008, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on April 2, 2008. The claimant did participate for a portion of the hearing until his cell phone lost connection for the second time. The employer did participate through Sandy Loney, Director of Human Resources. Employer's Exhibits A through D were entered and received.

**ISSUES:**

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

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as an over-the-road driver full time beginning November 27, 2006 through January 24, 2008 when he voluntarily quit.

The claimant quit because his girlfriend had just had a baby and she wanted him to switch to driving local routes. On January 18, the claimant sent the following message to his supervisor Mike Kehoe: "Look send me home I just had a baby and these are times I could be home. Things are going to hell for me real fast here at Decker's, and I don't want to be remembered as a bad driver. My girlfriend is making me go local anyway. I'll fins another job and give the back, (sic) and everybody wins. Plz. – K". (Employer's Exhibit C). The claimant's intention to quit is clear from his statement that his girlfriend wants him to drive locally and his indication that he would find another job. Continued work was available for him if he had not quit.

Claimant has received unemployment benefits since filing a claim with an effective date of February 3, 2008.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left his employment without 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.

871 IAC 24.25(21) 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 § 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 § 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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The claimant quit because his girlfriend wanted him to be home and drive local routes only. The claimant's decision to quit may have been for good personal reasons, but he did not quit with good cause attributable to the employer. Benefits are denied.

Iowa Code § 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because claimant's separation was disqualifying, benefits were paid to which claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The March 11, 2008, reference 02, decision is reversed. Claimant voluntarily left his 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. Claimant is overpaid benefits in the amount of \$2,358.00.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/css