

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN J TIMM
Claimant

APPEAL NO. 07A-UI-04761-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHENKER LOGISTICS INC
Employer

**OC: 04/22/07 R: 04
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Steven Timm filed an appeal from a representative's decision dated May 8, 2007, reference 01, which denied benefits based on his separation from Schenker Logistics, Inc. After due notice was issued, a hearing was held by telephone on June 1, 2007. Mr. Timm participated personally. The employer participated by Pat Cassabaum, Human Resources Assistant.

ISSUE:

At issue in this matter is whether Mr. Timm was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Timm was employed by Schenker Logistics, Inc. from November 13, 2006 until April 20, 2007. He was last employed full time as a dock driver. He was initially employed in case-pick. In January of 2007, he was granted a transfer to the position of dock driver operating a forklift.

Mr. Timm quit the employment because he was not meeting the employer's production goals. He was to move 21 pallets per hour. On February 9, the employer discussed with him the fact that he was only moving 9.8 pallets per hour. He was offered the opportunity for more training. He spoke with other dock drivers and implemented suggestions for improving his productivity. Mr. Timm received a written warning on March 5 because he was only moving 9.94 pallets per hour. He was placed on probation and told that his progress would be reviewed on June 5, 2007. He sought a transfer back to case-pick but the team leader for dock drivers would not release him back to his former position. Mr. Timm never spoke with a manager to see if he could return to case-pick. On his resignation, he indicated he was leaving for personal reasons. Continued work would have been available if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Timm quit because he was not meeting the employer's production goals and felt he would eventually be discharged as a result. The employer did not request his resignation. Although he was not meeting goals and had received a warning, the employer did not intend to review his progress until June 5. What steps the employer would have taken on June 5 is speculative.

Where an individual leaves work because he feels his performance is not up to the employer's standards but the employer has not requested the resignation and work is still available, the separation is considered a voluntary quit without good cause attributable to the employer. 871 IAC 24.25(33). While the employer had warned Mr. Timm about his performance, a discharge due to job performance was not imminent. For the reasons stated herein, the administrative law judge concludes that Mr. Timm's quit was not for good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The representative's decision dated May 8, 2007, reference 01, is hereby affirmed. Mr. Timm voluntarily quit his employment for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs