

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES NEWMAN
Claimant

APPEAL NO: 10A-UI-00377-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ATLANTIC CARRIERS INC
Employer

OC: 11/22/09
Claimant: Appellant (1)

Iowa Code Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Charles Newman (claimant) appealed an unemployment insurance decision dated December 29, 2009, reference 03, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment at Atlantic Carriers, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 16, 2010. The claimant participated in the hearing. The employer participated through owner Joe Bateman. 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:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time over-the-road truck driver from November 3, 2008 through July 4, 2009. He previously requested time off work for Father's Day on June 20, 2009. The claimant called the employer on June 18, 2009 from Oklahoma City and had seven hours left on his log book, which were enough to get him back home in Iowa. He requested a load that would take him home and that request was denied. A dispatcher named Kenny told him he had to go to the southwest part of Missouri and wait there until Sunday night when he would be loaded. Kenny was relaying these directives for dispatcher named Mr. Rainey.

Two of the claimant's kids were serving in the military and had made plans to be home on Father's Day. The claimant became angry that he was treated that way and testified he gave his two-week notice at that time. Approximately 15 minutes later, another dispatcher named Crystal called him and gave him a load that got him home for Father's Day. The claimant did not rescind his resignation.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by giving his verbal notice to quit. He quit because he was angry about one dispatcher's orders, even though those orders were subsequently changed within 15 minutes by another dispatcher.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated December 29, 2009, reference 03, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs