IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

LAWRENCE J YEATMAN
Claimant

HEARTLAND EXPRESS INC OF IOWA
Employer

APPEAL NO: 08A-UI-10058-DWT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 08/10/08 R: 12
Claimant: Appellant (2)

Section 96.5-2- a- - Discharge

STATEMENT OF THE CASE:

Lawrence J. Yeatman (claimant) appealed a representative's October 22, 2008 decision (reference 01) that concluded he was not qualified to receive benefits, and the account of Heartland Express Inc. of Iowa (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 14, 2008. The claimant participated in the hearing. Leah Peters, a human resource generalist, appeared on the employer's behalf. 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 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 on November 27, 2007. The claimant worked as a full-time over-the-road truck driver. In late June, the claimant received information that the mother of his children had been involved in a traffic accident in Texas. The claimant contacted a dispatcher and indicated he needed time off for personal reasons. The claimant did not initially know how much time he needed off. The employer's dispatcher granted the claimant the time off and told the claimant where to take his truck, to remove his personal belongings from the truck and to contact the employer in a week. The claimant followed these instructions. The claimant's last day of work for the employer was June 26, 2008.

The claimant called a dispatcher on June 30 to report that he still did not know how long he needed off from work. The dispatcher told the claimant to contact the employer again in a week. On July 7, the claimant again called and talked to a dispatcher. During this conversation, the claimant informed the employer's dispatcher he would not be able to return to work for a couple of weeks. The claimant understood this was not a problem and the employer wanted the claimant to call in a couple of weeks about returning to work.

The claimant did not contact any dispatcher the week of July 13. The claimant did not realize his job was in jeopardy until he received a letter from his health insurance company informing him that his coverage would end because the employer had terminated him as of July 16, 2008. After receiving this letter, the claimant contacted the employer's recruiting department because he planned to return to work on July 20 and wanted to again drive for the employer.

Although the claimant received information that he had a good driving record, the employer did not assign him to any other loads. The employer discharged the claimant because the employer's leave of absence policy allows drivers to have a 15-day leave of absence. When the claimant did not contact the employer for a load by July 12, the employer, pursuant to its policy, considered the claimant to have voluntary quit his employment and terminated his employment as of July 16. If the claimant had known his job was in jeopardy if he did not return to work by July 12, he could have returned to work by July 12 instead of waiting to return on July 20.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-1. 2-a. The facts do not establish that the claimant intended to quit his employment. After the claimant learned a relative had been in a traffic accident in Texas, he contacted the employer and asked for a leave of absence, which was granted. The claimant followed the instructions he received about where to park his truck and about keeping in contact with the employer's dispatchers. Even though the employer's policy only grants employees a 15-day leave of absence, the facts do not establish that any of the dispatchers the claimant talked to told him this. The evidence shows that if the claimant had been told he needed to return to work by July 12, he would have done so.

Even though the employer's documented conversations with the claimant do not match up to the claimant's testimony, the claimant's testimony must be given more weight than the employer's testimony. None of the dispatchers the claimant talked to or could have talked to testified at the hearing. As a result, the claimant's testimony as to what the dispatchers told him is not disputed. Even though there is a discrepancy between the claimant testimony and the employer's concerning the dates the claimant talked to dispatchers, it is not known if the dispatchers recorded all the conversations they had with the claimant or when documentation of a conversation was actually recorded.

Based on the employer's policy, the employer established business reasons for discharging the claimant. While the claimant should have asked when his leave of absence ended, the employer's dispatchers led him to reasonably believe he could return to work the week of July 20 without jeopardizing his employment. When the employer terminated the claimant's employment, the claimant had not intentionally failed to timely return to work. His failure to return to work by July 12 was the result of misinformation or miscommunication by the employer's dispatchers. The evidence does not establish that the claimant committed work-connected misconduct. As of August 10, 2008, the clamant is qualified to receive benefits.

DECISION:

The representative's October 22, 2008 decision (reference 01) is reversed. The claimant did not voluntarily quit his employment. Instead, the employer discharged him for business reasons that do not constitute work-connected misconduct. As of August 10, 2008, the claimant is

qualified to receive benefits provide he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise
Administrative Law Judge

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Decision Dated and Mailed

dlw/css