

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAURICE E ROBERTS

Claimant

APPEAL NO. 09A-UI-06351-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

OC: 03/15/09

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 13, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 20, 2009. Claimant participated and was represented by Elizabeth Norris, Attorney. Employer participated by Dave Dalmasso, Human Resource Representative and Justin German, Operations Supervisor.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 9, 2009. Claimant went into the hospital for a serious non-work-related medical condition. Claimant promptly told the employer of the need to be off due to illness. Claimant worked as a truck driver. He had a commercial driver's license. Claimant was insulin dependent when in the hospital. Claimant lost his driving privileges because he was on insulin. Employer offered claimant 12 weeks of FMLA but claimant did not return the forms. Claimant did recover from the illness and was able to return to work full duty effective two weeks after March 12, 2009. Claimant was able to go off insulin injections and switch to insulin pills which would qualify him to drive with a commercial license. Claimant is still on insulin pills to date of hearing. Claimant must re-qualify for driving by taking a DOT long form physical. Claimant did not take another physical. Claimant has never went back to ask for his job back. Claimant is not qualified to drive because he does not have a DOT physical allowing the driving of a commercial vehicle.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a personal illness. Claimant failed to return to the

employer and ask for his job back once he recovered. Claimant has a duty to return and ask for further work. Benefits withheld.

Iowa Code section 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

DECISION:

The decision of the representative dated April 13, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs