

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN D HOOKER
Claimant

APPEAL NO. 13A-UI-03328-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 01/27/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated March 13, 2013, reference 01, which denied benefits finding that the claimant voluntarily quit work on January 9, 2013 because of a non-work-related illness or injury. After due notice, a telephone hearing was held on April 17, 2013. The claimant participated. Participating as a witness for the claimant was Ms. Leslie Hooker, the claimant's wife. The employer participated by Mr. Gary King, Vice President Safety/Human Resources.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: John Hooker began employment with Heartland Express, Inc. of Iowa on September 28, 2011. Mr. Hooker was employed as a full-time over-the-road tractor/trailer driver and was paid by the mile. Mr. Hooker's last day of work was September 27, 2012. On that date the claimant suffered a heart attack and the employer was notified.

Mr. Hooker requested and was granted family medical leave for 12 weeks and further granted a two week extension of the leave by his employer. Mr. Hooker's doctor provided medical documentation to Mr. Hooker and Mr. Hooker forwarded the documentation to Heartland Express, Inc. of Iowa stating that the work limitations would be removed and that the claimant would be released to return to full work as an over-the-road tractor/trailer driver effective approximately January 9, 2013.

Shortly before his expected return date to work, Mr. Hooker contracted the flu and was seen by a second medical practitioner. The second heart doctor restricted the claimant from further exercise and subsequently informed the claimant that he would not be able to be fully released to return to his job as a truck driver until April 1, 2013. Mr. Hooker contacted Mr. Gary King at Heartland Express, Inc. of Iowa. The parties discussed the family medical leave time and the

extension that had been granted to Mr. Hooker and based on the conversation, Mr. King reasonably concluded that Mr. Hooker's intention was to quit his job at that time because no further medical leave or the extension was available to him, but the claimant had the hope of being rehired by the company in the future when limitations were lifted. The parties agreed that the claimant's employment with the company would conclude on or about January 9, 2013.

On about April 1, 2013, when fully released, Mr. Hooker attempted to return to his regular job with the company as an over-the-road tractor/trailer driver but no positions were available to the claimant at that time.

REASONING AND CONCLUSIONS OF LAW:

In this matter, the claimant initially left his employment effective January 9, 2013 because of the continuation of a serious illness after being advised by a second practicing physician that he was not medically able to return to work on January 9, 2013, the date previously set as his return to work date. Mr. Hooker had immediately notified the employer about his inability to return to work and the reason for it. After fully recovering and his recovery was certified by his doctor, Mr. Hooker attempted to return and offered to perform his regular services for the company but the claimant's regular job or comparable suitable employment was not available.

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.

The administrative law judge concludes based upon the facts of the case and the application of Section 96.5-1-d, that the claimant's separation from employment took place under nondisqualifying conditions. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible. The evidence in the record establishes that Mr. Hooker was able to perform general duties in employment effective the week ending January 26, 2013.

DECISION:

The representative's decision dated March 13, 2013, reference 01, is reversed. The claimant's leaving was attributable to the employer. The claimant is eligible to receive unemployment insurance benefits effective the week ending January 26, 2013 providing he has met all the eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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