

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES FUNCHES

Claimant

APPEAL NO: 09A-UI-01906-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

**OC: 01/04/09 R: 12
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

James Funches (claimant) appealed an unemployment insurance decision dated January 29, 2009, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Heartland Express Inc. of Iowa (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 26, 2009. The claimant participated in the hearing. The employer participated through Lea Peters, Human Resources Generalist. 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 December 14, 2005 through December 19, 2008. He informed the fleet manager on November 13, 2008 that he was unable to do the driver unload because his back hurt. The employer took him off work until he could be seen by a doctor. Alicia Smith contacted the claimant on November 21, 2008 and advised him she was sending out documentation so he could have his physician certify his medical leave under the Family Medical Leave Act (FMLA). The claimant provided his address as 5941 Upland Way in Philadelphia, Pennsylvania. The documentation was due by December 4, 2008 but he did not return it. A 15-day extension letter was sent to him which gave him until December 18, 2008 to return the FMLA paperwork certified by his physician. The claimant did not return the FMLA paperwork and did not contact the employer. He was considered to have voluntarily quit as of December 19, 2008. The claimant finally contacted the employer on December 29, 2008 and was advised that he was considered to have quit since he did not return the FMLA certification.

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 § 96.5-1.

The claimant was taken off work on November 13, 2008 for medical reasons after he informed the fleet manager he was unable to carry out the essential functions of the position due to back pain. The employer advised him that FMLA paperwork was being sent to him on November 21, 2008 and the medical certification had to be returned by December 4, 2008. It was not returned and a 15-day extension letter was then mailed to him. 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 failing to call the employer or return the requested FMLA paperwork by December 18, 2008. If he was not living at the address the employer had for him, it was his responsibility to provide an updated address or to check his mail where the information had been sent. He knew documentation was being mailed to him but simply took no further action.

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

DECISION:

The unemployment insurance decision dated January 29, 2009, reference 01, 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