

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANCIS A FLATMAN
Claimant

APPEAL NO. 07A-UI-08490-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HILL & HILL TRANSPORTATION
SERVICE CORPORATION**
Employer

OC: 07/29/07 R: 04
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Francis Flatman filed an appeal from a representative's decision dated September 4, 2007, reference 01, which denied benefits based upon his separation from Hill & Hill Transportation Service Corporation. After due notice was issued, a hearing was held by telephone on September 17, 2007. Mr. Flatman participated personally. Participating as a witness for the claimant was Ms. Nancy Phelps, representative of the family resources. The employer participated by Camba Hill.

ISSUE:

At issue in this matter is whether Mr. Flatman quit employment for reasons that were attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from February 26, 2007 until July 30, 2007 when he voluntarily quit employment. Mr. Flatman worked as an over-the-road tractor/trailer driver and was paid a percentage of load revenues. His immediate supervisor was Camba Hill, Dispatcher.

Mr. Flatman left his employment with the captioned trucking company due to dissatisfaction with the requirement that he accept the return loads designated by a client of Hill Transportation. Because of the specialized requirement that drivers deliver and return with loads designated by "Cool Running," drivers were provided a higher rate of percentage compensation. Mr. Flatman was aware of the load requirements and the compensation plan at the time that he applied for and accepted employment. The claimant left his employment after becoming dissatisfied at the requirement that he drive additional mileage to obtain a designated return load in compliance with the "Cool Running" agreement rather than returning with a load that was available in the same location where he had most recently delivered a load for the company. Mr. Flatman also believed that he could readily obtain employment with another trucking company and began orientation with the new company approximately three days after leaving his employment with

Hill Transportation. The new employment did not materialize when it was determined that Mr. Flatman had a previous positive test for controlled substances. The claimant, at the time he was employed by Hill Transportation had previously tested positive for a controlled substance and was under a rehabilitation substance testing program that required the claimant to be tested a number of times within certain time increments. Testing times were to be kept confidential by the trucking company who employed Mr. Flatman. After leaving his employment with Hill Transportation, the claimant believed that the new company would not hire the claimant because he had not been given a sufficient number of tests while employed by Hill Transportation. Hill Transportation believed that they were complying in all ways with the testing program throughout the period of Mr. Flatman's employment. It is the employer's position that the potential new employment, Decker Transportation, has a policy prohibiting the hiring of any driver who has tested positive for a controlled substance in the past.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the claimant's primary reason for leaving his employment with Hill Transportation on July 30, 2007 was dissatisfaction with the requirement that he travel extra miles in order to obtain a return load in compliance with the agreement between "Cool Running" and Hill Transportation. Under the terms of the agreement drivers were required to deliver and return with "Cool Running" loads and were compensated extra by receiving a higher proportion of the load's revenues. The evidence establishes Mr. Flatman was aware of the requirement and had accepted it at the time of hire.

Mr. Flatman also maintains that he left his employment because Hill Transportation was adhering to the requirements of a drug rehabilitation plan that Mr. Flatman had entered into after previously being tested positive for a controlled substance. The evidence establishes that Mr. Flatman was not hired by a later employer because of testing positive for a controlled substance and believed that the number of tests issued by Hill Transportation during his employment with that company in some manner caused Decker Transportation to refrain from hiring him. The evidence establishes that Hill Transportation reasonably believed that they were in compliance with the testing requirements of the claimant's rehabilitation. The administrative law judge is of the opinion that this reason was not a basis for the claimant's decision to leave his employment with Hill Transportation but was utilized by the claimant "after the fact" when he was not hired by the new employer.

Iowa Code section 96.5-1 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.

For the reasons stated herein, the administrative law judge finds that the evidence does not establish that the claimant quit his employment for reasons that were attributable to Hill Transportation. Benefits are withheld.

DECISION:

The representative's decision dated September 4, 2007, reference 01, is hereby affirmed. The claimant quit employment for reasons that were not caused by the employer. Benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided that the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs