

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SUE E REYNOLDS
2207 BURLINGTON STE 3
COLUMBIA MO 65202

BATCHELER MIDWEST TRANSPORT INC
PO BOX 311
CENTER POINT IA 52213

Appeal Number: 04A-UI-04244-HT
OC: 02/29/04 R: 12
Claimant: Appellant (5)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Quit

STATEMENT OF THE CASE:

The claimant, Sue Reynolds, filed an appeal from a decision dated April 5, 2004, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on June 14, 2004. The claimant participated on her own behalf. The employer, Batcheler Midwest Transport, Inc. (Batcheler), participated by Administrative Assistant Angie Batcheler.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Sue Reynolds was employed by Batcheler from January 27 until November 5, 2003. She was a full-time over the road truck driver. In order to maintain her commercial driver's license the claimant was required to have a current certification from her physician of fitness to drive. These are valid for two years and Ms. Reynolds's certification expired October 15, 2003.

Instead of going to a doctor for a new physical, she copied the information from her previous form and forged the signature of the doctor. A surprise inspection of driver records by the Department of Transportation was done at the end of October 2003 and the inspector was suspicious because the form used by the claimant was an old form. The hospital was contacted and it was discovered the doctor who allegedly signed the certificate did not work there.

On October 31, 2003, Ms. Reynolds was confronted and admitted to forging the document and the signature. Owner Steve Batcheler told her she could continue working if she provided a valid certification of physical fitness. On November 5, 2003, the claimant contacted the employer and said she would have to quit because the medications she was taking were not approved by DOT and she could not pass the physical.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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.

The claimant quit when she learned she could not pass the physical required to maintain her CDL under the DOT regulations. The employer was willing to maintain her as a driver, in spite of her falsifying the initial medical report, and her decision to quit is therefore without good cause attributable to the employer. She is disqualified.

DECISION:

The representative's decision of April 5, 2004, reference 02, is modified without effect. Sue Reynolds quit work without good cause attributable to the employer. She is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/kjf