

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN W KENDALL**  
Claimant

**APPEAL NO: 07A-UI-03479-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DUNHAM TRUCKING INC**  
Employer

**OC: 03/11/07 R: 04**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

John W. Kendall (claimant) appealed a representative's April 2, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Dunham Trucking, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 23, 2007. The claimant participated in the hearing. Josh Covert appeared on the employer's behalf. 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:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer on December 12, 2006. The claimant worked as a full-time over-the-road driver. The claimant's last day of work was February 16, 2007.

The employer relies on brokers' statements that a load weighs so much. After a truck is loaded, the employer asks drivers to go to a ticketed scale to make sure the load does not exceed the maximum weight allowed. If the load is overweight, the employer determines if as fuel is burned, the weight will meet the weight limit, or if the broker needs to take something off the load.

In January, the claimant reported a load he had been assigned was overweight. The dispatcher on duty, Nathan, assured the claimant this would not happen again. Either this load or another load that was overweight, the employer told the claimant that if he did not take the load, the employer would lose the load. The claimant was concerned because he did not want to drive illegally and receive a ticket for driving a load over the weight allowed. The employer does not want drivers to drive overweight loads because if an overweight load is ticketed, this counts against the employer's safety record.

The week of February 11, the employer assigned the claimant four or five loads and a majority of them were overweight. After the employer gave the claimant a heavier truck to drive, he had more problems with his loads being over the weight limit.

On February 15, 2007, the claimant had waited 24 hours for his truck to be loaded. After it was loaded, he discovered it was 2,700 pounds overweight. The employer asked the claimant to get a scaled ticket so the broker would know how much weight had to be taken off. Only the broker could take off the weight and this broker was not available when the claimant learned his truck was overweight. The employer wanted the claimant to stay overnight so his truck would not be overweight. The claimant decided he did not want to wait and told the employer he would take the load even though it was overweight. The claimant also informed the employer he was quitting because he was tired of driving illegally or driving an overweight truck.

### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive unemployment insurance benefits. Iowa Code § 96.6-2.

The facts establish the employer had to rely on a broker's statement that a load weighed so much. The facts also show that the claimant and the employer both had concerns about driving a truck that exceeded the weight limit. Both the claimant and employer suffered consequences if the load was ticketed for being over weight.

It is understandable that the claimant was frustrated the week of February 11 when the majority of his loads were overweight. The day the claimant decided to quit, he did not want to wait for some of the load on his truck to be taken off. The claimant saw people working where his truck had been loaded and believed someone could have decided what to take off his truck. The employer, however, received information that the broker responsible for this load was not at work. The claimant was extremely frustrated with this situation.

Since the employer asked drivers, including the claimant, to get a ticketed scale ticket to make sure the load was not overweight, the facts do not support the claimant's contention that the employer expected the claimant to drive illegally. There may have been one time the employer asked the claimant to drive a load that was at least initially overweight, because the employer would lose the load if the claimant did not. Since the major problem with overweight loads occurred in one week, the evidence does not establish that the employer required the claimant to drive illegally. The facts indicate the employer took reasonable steps so the claimant did not drive over the weight limit.

The claimant established compelling personal reasons for quitting. His reasons do not qualify him to receive unemployment insurance benefits. As of March 11, 2007, the claimant is not qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's April 3, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for compelling personal reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 11, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw