

**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**

**Appeal Number: 05A-UI-00919-JTT
OC: 11/28/04 R: 01
Claimant: Appellant (1)**

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.

**ROGER E MANKER
212 IRONWOOD ST APT 225
CORRECTIONVILLE IA 51016**

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.

**SIOUXLAND RECOVERY INC
1100 CUNNINGHAM DR
SIOUX CITY IA 51107**

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) - Voluntary Quit

STATEMENT OF THE CASE:

Roger Manker filed a timely appeal from the January 24, 2005, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on February 10, 2005. Mr. Manker participated in the hearing. Siouxland Recovery participated through Thomas Tucker, General Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Manker was employed by Siouxland Recovery as a full-time driver for three days, December 29-31, 2004, when he voluntarily quit the position. Mr. Manker had been hired as the replacement for a driver the employer planned to discharge. On December 29, Mr. Manker worked from 6:00 a.m. to 6:00 p.m. Mr. Manker had been advised during his interview that he

could expect to work until 4:00 p.m. On December 30, Mr. Manker worked until 2:00-3:00 p.m. On this day, Mr. Manker noticed that the truck he was assigned to operate had a broken speedometer. At some point in the day, Mr. Manker mentioned the broken speedometer to Richard Hall, the business owner. Mr. Hall advised Mr. Manker that the truck was a spare truck and then the conversation ended. Mr. Manker did not mention the broken speedometer to his supervisor, Mr. Tucker.

There was a discrepancy between the information Mr. Manker received from management and the information he received from co-workers. A co-worker advised Mr. Manker the days were sometimes long and that on rare occasions a driver might work until 8:00 p.m. A co-worker advised him that drivers could be called into work on Saturdays. Mr. Manker was not asked to work a Saturday. A co-worker advised Mr. Manker that the co-worker had been fined for an equipment violation, that the company had paid the fine, but that the company had then taken the money for the fine out of his paycheck over time. The co-worker did not tell Mr. Manker that there had, in fact, been several fines resulting from the same incident, that the fines was entirely the employee's fault and had cost the employer several thousand dollars.

At approximately 11:00 a.m. on December 31, Mr. Manker learned that the employer was preparing to terminate one of the drivers and had hired Mr. Manker as that driver's replacement. Mr. Tucker summoned Mr. Manker and the driver who had been training Mr. Manker to a meeting. The business, Richard Hall, subsequently joined the meeting. Mr. Tucker asked the trainer how Mr. Manker had been performing during his training. Mr. Manker had been doing satisfactorily. Mr. Tucker asked Mr. Manker whether he would be able to work five days a week. Mr. Manker launched into concerns he had about the position. He mentioned that he had arthritis. He referenced the fine that the co-worker had discussed with him. Mr. Manker then made the statement, "I don't want to be involved with this." By that statement, Mr. Manker meant the firing of another driver. Mr. Manker then quit and left.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Manker voluntarily left his employment without good cause attributable to the 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.

Mr. Manker has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). Mr. Manker testified that he quit the position because it did not meet his expectations and because he was concerned he might be cited for speeding, since the speedometer in one of the trucks was broken. Mr. Tucker testified that he was not aware of the broken speedometer and that if Mr. Manker had made him aware of it, he would have fixed it, as required by law. Mr. Manker left due to his dissatisfaction with the work environment. Quits due to this reason are presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21).

Based on a careful review of the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Manker's voluntary quit was not for good cause

attributable to the employer. Accordingly, Mr. Manker is not eligible for benefits in connection with his separation from this employment.

DECISION:

The January 24, 2005, reference 02, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

jt/tjc