

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID G LARKINS

Claimant

APPEAL NO. 07A-UI-07597-C

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRANSPORT AMERICA

Employer

**OC: 07/08/07 R: 04
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

David Larkins filed an appeal from a representative's decision dated August 1, 2007, reference 01, which denied benefits based on his separation from Transport America. After due notice was issued, a hearing was held on October 29, 2007 in Davenport, Iowa. Mr. Larkins participated personally and Exhibits A and B were admitted on his behalf. The employer participated by Larry Gardner, Support Centers Manager.

ISSUE:

At issue in this matter is whether Mr. Larkins was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Larkins was employed by Transport America from December of 2006 until June 30, 2007 as an over-the-road driver. He quit the employment because he did not feel he was getting home as frequently as indicated at the time of hire. The recruiter indicated he would be home 46 out of 52 weeks each year.

Mr. Larkins had medical appointments in March, April, May, and June that he had to reschedule when assigned loads. He had the right to refuse a dispatch without consequence but never did. There were occasions when he was on the road for three weeks at a time. The employer provides a "get home certificate" to drivers once each quarter. The certificate guarantees that a driver will be home on a specified date. The bulk of the drivers working out of Mr. Larkins' location get home at least once each week. Although Mr. Larkins complained about having to reschedule appointments, he did not tell anyone that he would quit if not routed home more frequently.

On June 28, Mr. Larkins picked up a load in Muscatine, Iowa, that was to be delivered to Kansas City by 5:00 a.m. on June 29. He accepted the load and drove approximately 25 miles south of Des Moines before deciding that he was not going to take the load. He then quit. He had planned to be home for a wedding on June 29 and had previously advised his fleet

manager of his plans. If he had completed the run to Kansas City, he could not have made it back home in time for the wedding. Continued work would have been available if Mr. Larkins had not quit.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Larkins quit because he was not getting home as frequently as he wished. He could have declined runs that would have prevented him from making his scheduled medical appointments. However, he did not. He did not utilize any "get home certificates" to ensure he would be home on specified dates. Since he continued to accept loads that would take him away from home for extended periods, the employer could only assume he was satisfied with his work schedule.

Mr. Larkins never put the employer on notice that he felt the job was misrepresented in terms of home time or that he would quit if not routed home more frequently. Given the fact that the bulk of the drivers are home at least once each week, the administrative law judge must conclude that the employer would have accommodated Mr. Larkins had he given notice that he was dissatisfied with his schedule. By not telling the employer he intended to quit if changes were not made, Mr. Larkins deprived the employer of the opportunity to make those changes that would have prevented him from quitting. Inasmuch as the employer was not given a reasonable opportunity to salvage the employment relationship, it is concluded that Mr. Larkins' quit was without good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The representative's decision dated August 1, 2007, reference 01, is hereby affirmed. Mr. Larkins quit his employment with Transport America for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs