

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT MARKER**  
Claimant

**APPEAL NO: 08A-UI-05824-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MORAN TRANSPORTATION**  
Employer

**OC: 05-11-08 R: 02  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the June 16, 2008, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 10, 2008. The claimant participated in the hearing. Lee Moran, Owner, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time over-the-road truck driver for Moran Transportation from March 2007 to May 18, 2008. The employer leases six trucks to UTS and after the claimant returned from a run May 14, 2008, UTS said it did not want the claimant to drive for it any longer because he was argumentative with the dispatcher. The employer said it would try to find other work for the claimant and on May 15 or 16, 2008, it notified the claimant it had a load for him to pick up in Texas and the claimant accepted the assignment. The claimant was supposed to leave May 17, 2008. He picked up his truck and checked the turn signals because he had been experiencing problems with them when out on the road. The employer fixed the turn signals in the shop and they would work until the claimant got on the road. The claimant started down the road to Texas and checked the turn signals and found they did not work. He called the employer and said he could not drive without turn signals. The claimant testified the employer hung up on him and the employer testified they were cut off and he tried to call him back. The claimant returned to the employer's location, receiving a warning citation for the turn signals on his way back, removed his belongings from the truck and went home without speaking to the employer. On May 18, 2008, the employer found the claimant's truck in the lot and tried to call him several times to tell him he had another truck and full-time work available for him hauling flatbed freight but the claimant never called him back and the employer determined he voluntarily quit his job.

The claimant has claimed and received unemployment insurance benefits since his separation from this employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant 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.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant was understandably upset about the turn signal problem and the employer tried to fix it in the shop but the turn signals failed to work once he got on the road. It may have been more prudent for the employer to send the truck out for repairs but he thought he fixed the problem in his shop. While UTS asked that the claimant no longer drive for their company the employer was able to secure another full-time assignment for him with a new truck but the claimant failed to answer the employer's phone calls or return his calls to learn that information. Under these circumstances the administrative law judge cannot conclude that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits must be denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The June 16, 2008, reference 01, decision is reversed. 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. The claimant is overpaid benefits in the amount of \$3,009.00.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs