

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

THOMAS F PLOTNER  
3450 HAUYLAPAI WAY  
LAS VEGAS NV 89129

HEARTLAND EXPRESS INC OF IOWA  
2777 HEARTLAND DR  
CORALVILLE IA 52241

Appeal Number: 04A-UI-00314-H2T  
OC 11-30-03 R 03  
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.

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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 31, 2003, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 3, 2004. The claimant did participate. The employer did participate through Don McGlaughlin, Human Resources Manager, Lea Kahrs, Human Resources Generalist. Employer's Exhibit One was received. Claimant's Exhibit A was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an accounts receivable manager full time beginning April 3, 2000 through November 25, 2003 when he voluntarily quit. The claimant was off work to have

cataract surgery on November 11, 2003. The claimant presented a doctor's excuse to the employer that allowed him to be off work until November 17, 2003. The claimant admits that he was specifically instructed by Mr. McGlaughlin to keep Mr. Cosaert apprised of what was going on with his medical leave. The claimant did not return to work on November 17, 2003. On November 17, 2003 the claimant called the employer and spoke to Mr. McGlaughlin, who told him he needed to speak to Mr. Cosaert, who could grant him an extension of his leave. The claimant was placed on hold so that he could be transferred to Mr. Cosaert, but hung up before Mr. Cosaert could answer the phone. The claimant never contacted Mr. Cosaert. At the hearing the claimant admitted that he had been specifically instructed by Mr. McGlaughlin to contact Mr. Cosaert. The claimant did not show up for work again until November 25, 2003. During that time period, the claimant may have contacted employees who worked for him, but he failed to contact Mr. Cosaert, his supervisor, as he admits he had been specifically instructed to do.

When the claimant returned to work on November 25, 2003, he was immediately called to Mr. Cosaert's office and asked where he had been for the past eight days. The employer clearly had a right to inquire into the claimant's absence. The claimant became upset and told Mr. Cosaert in the presence of Mr. McGlaughlin, "I quit." The claimant then walked out of the office. Mr. McGlaughlin followed the claimant to the parking lot where the claimant again repeated, "I quit." The claimant stated, "I quit" no less than five times to Mr. McGlaughlin. Had the claimant not quit, continued work was available for him. The claimant quit after having been reprimanded on November 25, 2003.

#### 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.

871 IAC 24.25(28) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (28) The claimant left after being reprimanded.

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 (amended 1998). The employer

certainly had reason to inquire where the claimant had been for eight days and why he had not called in to speak to Mr. Cosaert as he specifically was instructed to do. The claimant did not like the inquiry and did not want to be reprimanded so he choose to quit. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). When the claimant said I quit and walked out of the employer's office, he clearly evidenced his intention to terminate the employment relationship. The claimant's decision to quit after having been reprimanded was not a good-cause reason attributable to the employer for leaving. Benefits are denied.

DECISION:

The December 31, 2003, reference 01, 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.

tkh/b