

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL J KITCHENS
Claimant

APPEAL NO. 12A-UI-14032-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEYL TRUCK LINES INC
Employer

OC: 10/28/12
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 20, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on December 26, 2012. Claimant participated. Employer participated through Vice President of Safety Keith Pease and Driver/Terminal Manager Jason Pease (son and subordinate employee of Keith Pease).

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a Midwest fleet regional driver from late November 2011 and voluntarily quit the employment on April 27, 2012 without notice or reason. He has not requalified for benefits since then. He responded to an ad in the paper and spoke with dispatcher and immediate supervisor Jason Pease about driving the route between Omaha and Chicago two and one-half to three times per week. Keith Pease interviewed and hired claimant to do that job, which he did until mid-February 2012 when the employer lost that contract and assigned claimant eight to eleven general freight driving assignments per week, including night driving, within a 400-mile radius of Omaha. The miles and destinations varied. Claimant did make the employer aware after he was hired that he did not like night driving assignments.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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(18) and (21) provide:

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:

(18) The claimant left because of a dislike of the shift worked.

(21) The claimant left because of dissatisfaction with the work environment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

Claimant's leaving the employment without notice or reason renders the separation without good cause attributable to the employer. At hearing, claimant said he quit because of the change in the terms of hire. He continued to work for at least two months after that change without specific complaint to the employer, thus acquiescing to the changes. Benefits are denied.

DECISION:

The November 20, 2012 (reference 01) decision is affirmed. Claimant voluntarily left the 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/tll