

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID P HORAK**  
Claimant

**APPEAL NO: 09A-UI-09605-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HUENEMAN FARMS LC**  
Employer

**OC: 05/24/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

David P. Horak (claimant)) appealed a representative's June 25, 2009 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Hueneman Farms, L.C. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 21, 2009. The claimant participated in the hearing. Karen Hueneman appeared on the employer's behalf and presented testimony from two witnesses, Kent "K.J." Hueneman and Jerry Prignitz. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on May 10, 2008. He worked full time as an over-the-road truck driver in the employer's trucking business. His last day of work was May 20, 2009. He voluntarily quit on May 21.

The claimant had just come in from a route on the road, and on May 21 was discussing with Mr. Hueneman, the company president, how soon he would be going out. He indicated to Mr. Hueneman that he was not going back out, as he was tired of dealing with issues with his truck. There were some intermittent problems with a defrost fan, and when the truck was stationary, there were some seams in the cab/sleeper that would leak in the rain. Also, there was a faulty valve on an air dryer in the air brake system that would intermittently cause the brake air pressure to drop. This would trigger a warning signal so that the claimant would need to pull over and stop the vehicle until the air pressure rebuilt. There were also issues regarding the appearance of the truck due to prior accidents and age that the claimant did not like.

The employer offered to switch the claimant to another truck, but the claimant declined as he doubted any other truck would be any better. On May 21 he left the discussion with

Mr. Hueneman with the understanding that he was quitting. After the claimant left the discussion, Mr. Hueneman spoke to Mr. Prignitz, the shop foreman, who then spoke to the claimant and urged him to reconsider, again offering him the opportunity to switch into another truck, and advised him to speak to Mr. Hueneman the next day.

On May 22 the claimant did go into the employer's facility and cleared his personal belongings out of his truck. He had considered speaking further with Mr. Hueneman, but Mr. Hueneman had an appointment with a visitor in his office while the claimant was there, so the claimant decided simply to leave. He did not further attempt to contact the employer to explore other options, and he did not return to work.

#### **REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). While the claimant's work situation was perhaps not ideal, the claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). To the extent the problems with the truck were sufficiently safety related, the employer offered to address the problem by switching the claimant to another truck, but the claimant did not accept this option. The claimant has not satisfied his burden. Benefits are denied.

#### **DECISION:**

The representative's June 25, 2009 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of May 22, 2009,

benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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