

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY NICKOLITE
Claimant

APPEAL NO: 10A-UI-03151-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADKINS SPECIALIZED CARRIERS LLC
Employer

OC: 01/17/10
Claimant: Respondent (1)

Iowa Code Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Adkins Specialized Carriers, LLC (employer) appealed an unemployment insurance decision dated February 16, 2010, reference 01, which held that Larry Nickolite (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 12, 2010. The claimant participated in the hearing. The employer participated through Owner Jamie Adkins and Salesperson David Elliott. Employer's Exhibit One and Two were admitted into evidence. 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:

The issue is whether the claimant's voluntary separation from employment was disqualifying?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time over-the-road truck driver from May 7, 2009 through January 21, 2010. He voluntarily quit his employment because he was not getting paid. The employer contends the claimant was not getting paid because he did not turn in all his paperwork but the claimant denies this claim with the exception of the paperwork from the last three loads which he admitted he was holding as leverage. However, the employer admitted that getting paid from its contract company was a lengthy process even when the paperwork was turned in.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

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.

The claimant quit his employment because he was not getting paid. The preponderance of the evidence confirms the claimant was not receiving his pay on a regular basis and in a timely fashion. This was partly out of the employer's control since it had to wait for its contractor to pay the company before the employer could pay its employees. "Good cause" need not be based on fault or wrongdoing on the part of the employer, but may be attributable to the employment itself. Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated February 16, 2010, reference 01, is affirmed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css