

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

CLARENCE B SOPER
626 S 10TH ST
ESTHERVILLE IA 51334

KNIGHT TRANSPORTATION
5601 W BUCKEYE RD
PHOENIX AZ 85043

Appeal Number: 04A-UI-11880-CT
OC: 10/03/04 R: 01
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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Clarence Soper filed an appeal from a representative's decision dated October 27, 2004, reference 01, which denied benefits based on his separation from Knight Transportation. After due notice was issued, a hearing was held by telephone on November 30, 2004. Mr. Soper participated personally. The employer participated by Jason Jones, Human Resources Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Soper was employed by Knight Transportation from May 13 until October 1, 2004 as an over-the-road truck driver. He received notice in early September from the Iowa Department of Transportation (IDOT) that he was required to attend a safety class. The class was required because he was determined to be a habitual offender due to three moving violations within a 12-month period. The class was scheduled for September 25.

The employer does not have forced dispatches and drivers are free to decline runs without any adverse consequences. On September 3, Mr. Soper sent the employer a message indicating he wanted to come home but did not specify when he wanted to be routed home. Mr. Soper accepted a dispatch on September 22 that took him from Kansas to Illinois. He then picked up a load in Illinois to deliver to Nebraska. The run caused him not to be available to attend the safety class on September 25. As a result, IDOT suspended his license. He did not notify the employer of his situation. He simply stopped reporting for work.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Soper was separated from employment for any disqualifying reason. He became separated from the employment because he lost his license to operate a motor vehicle and, as such, was no longer able to perform services for his employer. The employer was unaware that his license to drive was in jeopardy. Therefore, the employer did not discharge him for not having a valid license. The ability to retain his license was within the control of Mr. Soper as he only had to attend the safety class required by IDOT. It was his choice to accept dispatches rather than make himself available for the class. The administrative law judge concludes that Mr. Soper voluntarily engaged in the conduct which rendered him unemployable. Moreover, he simply stopped reporting for work without any notice to the employer. For the above reasons, the administrative law judge concludes that the separation should be considered a voluntary quit.

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Soper had the burden of proving that his quit was for good cause attributable to the employer. Iowa Code section 96.6(2). He left the employment because he no longer had a valid license to perform the job for which he was hired. Because the loss of his license was not a matter over which the employer had control, he did not have good cause attributable to the employer for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated October 27, 2004, reference 01, is hereby affirmed. Mr. Soper quit his employment for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kjf