

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY G BOLEN

Claimant

APPEAL NO. 12A-UI-02263-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC

Employer

OC: 01/15/12

Claimant: Appellant (2-R)

Iowa Code Section 96.5(1) – Layoff

STATEMENT OF THE CASE:

Randy Bolen filed a timely appeal from the March 1, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 21, 2012. Mr. Bolen participated. Sandy Matt, Human Resources Generalist, represented the employer.

ISSUE:

Whether Mr. Bolen separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Randy Bolen was employed by CRST Van Expedited as a full-time over-the-road truck driver from May 2011 until on October 24, 2011, when the employer laid him off. Mr. Bolen's immediate supervisor was Fleet Manager Chelsea Stoll. On October 22, 2011, Ms. Stoll notified Mr. Bolen in writing via the Qualcomm device in his assigned truck that he needed to take his truck to the employer's Oklahoma City terminal, leave the truck there, schedule a sleep study to determine whether he had sleep apnea, obtain a machine to treat sleep apnea, and only then would he be allowed to return to the employment. The employer expected Mr. Bolen to pay for the sleep study and sleep apnea machine. Ms. Stoll told Mr. Bolen that she would put \$150.00 in his company credit card account as transportation money to get Mr. Bolen from the Oklahoma City terminal to his home in Kansas.

Mr. Bolen was required by federal law to have a valid medical card to operate a commercial motor vehicle. The medical card has to be issued by a medical doctor. CRST ordinarily sends drivers to doctors with whom the employer has an established relationship to facilitate drivers getting the required medical card. Mr. Bolen did not have a medical card when he came to CRST as a student driver. During the employment, Mr. Bolen underwent a medical physical and obtained a valid six-month medical card on April 25, 2011. The doctor performing the required physical and issuing the medical card would ordinarily issue a two-year medical card to a healthy driver. Mr. Bolen suffers from diabetes. Mr. Bolen assumed his diabetes was what

prompted the doctor to issue a six-month medical card in April 2011. The doctor provided CRST a medical report in connection with the April physical.

When Mr. Bolen got the Qualcomm message from Ms. Stoll, he telephoned her to ask for more information. Ms. Stoll told Mr. Bolen that because of his neck size, the employer was requiring that he undergo a sleep study at his expense and get a sleep apnea machine at his own expense before he could return to work. The sleep study and machine requirement were separate from the medical physical Mr. Bolen was required by law to undergo before issuance of the medical card so that he could continue to legally operate a commercial vehicle. The employer imposed the sleep study and sleep apnea machine on its own. The employer required these things as a prerequisite to referring Mr. Bolen for the medical evaluation.

REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 24.1(113) provides as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

The weight of the evidence in the record establishes that the employer laid off Mr. Bolen effective October 24, 2011. The layoff would not disqualify Mr. Bolen for unemployment insurance benefits. See Iowa Code section 96.5(1) and (2)(a). Mr. Bolen is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Bolen.

This matter is remanded to the Claims Division for determination of whether Mr. Bolen has been able to work and available for work since he established his claim for benefits.

DECISION:

The Agency representative's March 1, 2012, reference 01, decision is reversed. The claimant was laid off effective October 24, 2011. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged.

This matter is remanded to the Claims Division for determination of whether the claimant has been able to work and available for work since he established his claim for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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