

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACK C CLARK
Claimant

APPEAL NO. 09O-UI-06714-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

**Original Claim: 01/11/09
Claimant: Respondent (2-R)**

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

CRST Van Expedited, Inc. (CRST) filed an appeal from a representative's decision dated February 13, 2009, reference 01, which held that no disqualification would be imposed regarding Jack Clark's separation from employment. After due notice was issued, a hearing was held by telephone on March 12, 2009. The March 13, 2009 decision of the administrative law judge reversed the prior allowance. Mr. Clark filed a further appeal with the Employment Appeal Board, which, on April 30, 2009, remanded the matter for a new hearing on the basis that Mr. Clark had not received notice of the prior hearing.

Pursuant to the remand, due notice was issued scheduling a telephone hearing on May 27, 2009. Mr. Clark participated personally and offered additional testimony from Brenda Owen. The employer participated by Sandy Matt, Human Resources Specialist, and Lance Riley, Fleet Manager.

ISSUE:

At issue in this matter is whether Mr. Clark was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Clark was employed by CRST from June 13 until November 19, 2008 as an over-the-road truck driver. On or about November 19, he notified Lance Riley, Fleet Manager, that he was giving two weeks' notice. He indicated he would be getting custody of his son and no longer available to drive. At the time of the call, Mr. Clark was at home in Jacksonville, Florida, where he had just dropped his last load. He called Mr. Riley back the same day to advise that he would not be returning at all.

Continued work would have been available if Mr. Clark had not quit. The employer did not discharge him or advise him that he was being considered for discharge. The employer was not

aware of any complaints of inappropriate conduct against him by any trainee, co-driver, or customer.

Mr. Clark filed a claim for job insurance benefits effective January 11, 2009. He has received a total of \$1,976.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

An individual who leaves employment voluntarily 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. Clark quit because he believed he would be gaining custody of his son and would, therefore, be unable to continue as an over-the-road driver. An individual who leaves employment due to serious family needs or responsibilities is presumed to have quit without good cause attributable to the employer. 871 IAC 24.25(23). Although Mr. Clark had good personal cause for quitting, his reason for leaving was not attributable to CRST.

Having taken the position that he was discharged, Mr. Clark did not offer any reason he would quit the employment. Since the reason he gave the employer was personal and not work-related, he is not entitled to job insurance benefits. He has received benefits since filing his claim. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated February 13, 2009, reference 01, is hereby reversed. Mr. Clark voluntarily quit his employment with CRST for no good cause attributable to the employer. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Mr. Clark will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw