

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY E CONCES

Claimant

APPEAL NO. 12A-UI-02824-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST FLATBED REGIONAL INC

Employer

OC: 01/22/12

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated March 2, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on April 5, 2012. The claimant participated personally. The employer participated by Ms. Sandy Matt, Human Resource Specialist.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Timothy Conces was employed by the captioned trucking company from June 20, 2011 until September 30, 2011 when he voluntarily left his employment for personal reasons. Mr. Conces was employed as a full-time over-the-road tractor trailer driver driving in a team setting with another company employee. Mr. Conces was paid by salary.

The claimant left his employment when he could not personally adapt to the rigors of over-the-road team driving. Because of the team operation the truck seldom stopped and the drivers would alternate driving and sleeping on each weekly trucking trip.

Although the claimant was aware of the nature of the work when he accepted it, Mr. Conces found that he was unable to adapt to sleeping in the truck while it was in motion causing the claimant to be fatigued. The claimant left his employment because he felt it was a good personal decision. At the time of leaving he had indicated that he had a new job.

At the time of leaving Mr. Conces had not secured new employment. Approximately two weeks later the claimant began to engage in self-employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left employment without good cause attributable to the employer.

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.

871 IAC 24.25(21) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

In this matter the evidence in the record establishes that Mr. Conces was aware of the nature of the work at the time that he accepted employment with CRST Flatbed Regional Inc. The claimant knew and understood that he would be working a team operation on a dedicated route and that the nature of the work would require that he sleep while the tractor trailer unit was being driven by his co-driver.

Nothing in the original agreement of hire changed, however, Mr. Conces made a personal decision that that line of work was not for him as he believed that he could not adapt to sleeping while the truck was in motion. While the claimant's reasons for leaving were undoubtedly good-cause reasons from his personal viewpoint, they were not good-cause reasons attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated March 2, 2012, reference 01, is affirmed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and is otherwise eligible

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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