

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN TOUTANT**  
Claimant

**APPEAL NO: 09A-UI-02423-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 12-14-08**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 3, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 10, 2009. The claimant participated in the hearing. Sandy Matt, Human Resources Specialist, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time over-the-road truck driver/trainer for CRST Van Expedited from November 7, 2007 to November 22, 2008. While the employer did not guarantee a certain number of hours at the time of hire it did state that it was anticipated the claimant would drive 2,500 to 3,000 miles per week and earn approximately \$825.00 per week. Due to the economy the employer experienced a downturn in business and as a result the claimant's gross income declined. The employer notified drivers through the Qualcomm system that there was a significant lack of freight and slowdown in business. In January 2008, the claimant's gross earnings were \$3,682.21; in February 2008, his gross earnings were \$1,161.90; in March 2008, his gross earnings were \$2,995.30; in April 2008, his gross earnings were \$2,666.15; in May 2008, his gross earnings were \$3,371.46; in June 2008, his gross earnings were \$3,667.63; in July 2008, his gross earnings were \$3,760.21; in August 2008, his gross earnings were \$2,502.44; in September 2008, his gross earnings were \$2,412.19; in October 2008, his gross earnings were \$2,332.57; and in November 2008, his gross earnings were \$1,995.20 including \$300.00 in vacation pay. His November earnings worked out to be \$7.00 per hour in addition to the average \$110.00 per month he spent on food while on the road. The employer chose to reduce driver's miles rather than lay off drivers while still hiring new drivers who were paid at a lower rate per mile. The claimant determined he could not live on the wages he was earning and the continual monthly decline he was experiencing and consequently he turned in

his vehicle and equipment to the terminal and notified the employer he was quitting over the Qualcomm system.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with 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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The claimant's income declined each month over the last five months of his employment. While the employer has suffered tremendously due to the economy and is right in stating the separation was not the fault of either party, it was forced to take action that impacted the claimant's pay. Inasmuch as the claimant was suffering a significant change in the number of hours and wages of the original terms of hire, it must be considered substantial. Consequently, benefits must be allowed.

**DECISION:**

The February 3, 2009, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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