

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERTO ROBINSON
Claimant

APPEAL NO: 11A-UI-04929-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 02-27-11
Claimant: Respondent (4)

Section 96.5-1 a – Voluntary Leaving – Other Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 5, 2011, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 11, 2011. 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 to accept employment elsewhere.

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 for CRST Van Expedited from April 9, 2010 to November 7, 2011. The employer had continuing work available. The claimant left his employment after his co-driver quit and he was instructed to drive him from California to Cedar Rapids and drop him off before continuing to Pennsylvania as a solo driver. The claimant refused to do so because he did not believe he could get the load there driving legally. He returned the truck and his co-driver to Cedar Rapids at 2:00 or 3:00 a.m. and went to Westside Trucking later that morning when he was hired and began orientation. During orientation it was discovered he did not have enough hours to drive for Westside and his employment there ended.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, he did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of CRST Van Expedited shall not be charged.

DECISION:

The April 5, 2011, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed provided the claimant is otherwise eligible. The account of this employer shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs