

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA E MARTIN
Claimant

APPEAL NO. 11A-UI-15471-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST FLATBED REGIONAL INC
Employer

**OC: 10/23/11
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated November 22, 2011, reference 02, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on January 3, 2012. Claimant participated personally. The employer participated by Ms. Sandy Matt, Human Resource Specialist.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Debra Martin was employed by CRST Flatbed Regional Inc. from July 29, 2010 until December 20, 2010. Ms. Martin was hired as an over-the-road tractor/trailer driver and was paid by the mile. Her immediate supervisor was Fleet Manager, Joel Dearborn.

Ms. Martin left her employment with CRST Flatbed Regional Inc. on December 20, 2010 when she elected to begin driving as an independent contractor rather than as a CRST Flatbed Regional employee.

Ms. Martin had become dissatisfied because of the driving habits of a co-driver and reported what she considered to be unsafe driving habits to the company. The company had acted by sending the co-driver to a safety officer for warning and/or training.

Ms. Martin elected to leave her employment as a direct employee of CRST Flatbed Regional because she no longer wished to drive with her co-driver and a replacement was not immediately available. Work continued to be available to Ms. Martin in a regular capacity, however, she chose not to continue driving with the co-driver or to wait for a replacement.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves her employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

In this matter the evidence in the record establishes that Ms. Martin elected to leave her employment with CRST Flatbed Regional, Inc. and to enter an independent contractor relationship with the company because she no longer wanted to drive with her co-driver. Ms. Martin had brought safety concerns to the attention of the company and the company had acted to warn and/or improve the co-driver's driving performance. Claimant had the option of continuing to drive with the co-driver or waiting for a new co-driver to be assigned, but elected an independent contractor agreement leaving the direct employ of CRST Flatbed Regional Inc.

While the claimant's reasons for leaving were good cause for personal reasons, they were not good cause reasons attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated November 22, 2011, reference 02, is affirmed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant works in and has been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs