

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARLILLIAN CIMINO**

Claimant

**APPEAL NO: 12A-UI-03520-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**

Employer

**OC: 02/26/12**

**Claimant: Respondent (2)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

CRST Van Expedited, Inc. (employer) appealed an unemployment insurance decision dated March 30, 2012, reference 04, which held that Marlillian Cimino (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 24, 2012. The claimant participated in the hearing. The employer participated through Sandy Matt, human resources specialist. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time over-the-road truck driver from June 10, 2010 through October 9, 2010, when she voluntarily quit. She was subsequently employed from May 31, 2011 through October 31, 2011, but that separation was addressed in a decision dated March 30, 2012, reference 01.

The claimant testified that she quit in October 2010 because she was not getting paid correctly. She said that the employer was treating her as a contract student when she was not a contract student. The claimant said the employer charged her \$4,000 as if she went thru their CDL School and the employer took \$50.00 out of her paycheck to pay for her training. However, this was not accurate, because the employer does not charge its employees for training. When a new employee has no experience, the employer pays for their three-week training for which the employee agrees to work for the employer for eight months. The employee pays nothing unless he or she quits before the eight months is over. The employee is paid \$50.00 per day for the first 28 to 30 days while in training.

The employer relied on its business records and found that the claimant signed an agreement on June 9, 2010 confirming she was a contract student and would be in a 28-day over-the-road training program. The employer accessed the claimant's wage records and the only amounts that were deducted were a garnishment, the cost of the physical and drug screen, a \$27.50 charge for housing, any advancements and the \$4.00 wire charge for those advancements. Her wage records are as follows:

<u>Date</u>	<u>Gross Pay</u>	<u>Per Diem Pay</u>
06/17/10	\$250.00	
06/24/10	\$350.00	
07/01/10	\$300.00	
07/09/10	\$200.00	
07/15/10	\$200.00	
07/22/10	\$350.00	
08/03/10	\$133.66	
08/05/10	\$163.17	
08/10/10	\$ 51.03	
08/12/10	\$421.99	
08/17/10	\$102.33	\$113.70
08/19/10	\$ 57.20	\$ 57.20
08/24/10	\$ 0.05	\$ 0.05
08/26/10	\$ 90.25	\$ 90.25
09/08/10	\$111.60	\$111.60
09/10/10	\$230.45	\$230.45
09/14/10	\$ 33.95	\$ 33.95
09/16/10	\$207.09	\$192.60
09/21/10	\$ 27.81	\$ 30.90
09/28/10	\$ 89.07	\$ 82.30
09/30/10	\$ 39.33	\$ 35.75
10/05/10	\$141.68	\$128.80
10/07/10	\$149.88	\$132.70
10/12/10	\$118.58	\$124.70
10/14/10	\$ 34.60	\$ 31.45

The information the employer has as to why the claimant quit is that she was unable to return due to family issues. Continuing work was available.

The claimant filed a claim for unemployment insurance benefits effective February 26, 2012, but has not received benefits after the separation from employment.

#### **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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 testified that she voluntarily quit because she was being charged \$4,000.00 for training, but the evidence does not support that claim. Her separation was not attributable to the employer.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated March 30, 2012, reference 04, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. There is no overpayment as a result of this claim.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/kjw