

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUZANNE M FAVER

Claimant

APPEAL NO. 09A-UI-09058-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC

Employer

OC: 05/10/09

Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 19, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 10, 2009. Claimant participated and called Michael Faver as a witness. Employer participated by Sandy Matt and Scott Comer.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 7, 2009. The claimant was an over-the-road team driver for CRST. CRST only uses team drivers. On May 6, 2009, the claimant and her team driver and husband Michael Faver were informed that Mr. Faver's driving/safety record required him to be fired. The claimant and her husband were told to make arrangement to return the truck to the employer, which they did. The claimant was asked by Mr. Comer if she would drive with another driver and she stated she would be leery of driving with another driver.

REASONING AND CONCLUSIONS OF LAW:

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa

1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant did not intend to terminate her employment relationship. Her team driver partner was fired. The employer only uses team drivers. She and her husband were told to turn in the truck. The claimant reasonably assumed she had been terminated.

The employer only used team drivers. The employer discharged the claimant's team member. They did not offer her a replacement. The claimant did not refuse another offer to work. The fact that the claimant would be leery of being a team driver with someone other than her husband is not a quit but a statement that the claimant had concerns as to who could be her new team driver.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant was terminated along with her team driver partner.

DECISION:

The decision of the representative dated June 19, 2009, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/pjs