

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA A JAMES
Claimant

APPEAL NO: 09A-UI-02319-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 01/04/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Patricia A. James (claimant) appealed a representative's February 2, 2009 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from CRST Van Expedited, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 9, 2009. The claimant participated in the hearing. Jim Barnes appeared on the employer's behalf. 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:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on May 8, 2008. She worked full time as an over-the-road truck driver in the employer's transportation business. Her last day of work was December 20, 2008.

As of December 20 the claimant was home for holiday time. Her co-driver was going to be undergoing surgery and so was going to be off work for an undetermined period of time, so the claimant had advised her direct supervisor that she was going to need to be paired with another co-driver, or she was interested in going through a training class so she could become a lead driver to drive with and guide new drivers. Her direct supervisor indicated he would be on vacation himself until about January 6, but if the claimant was ready to get started before then she could call and speak with whomever was covering for him and should be able to be set up either way she decided to go.

On December 29, 2008 and again on January 2, 2009 the claimant called in and spoke to the person who was covering for her supervisor while he was on vacation. She informed the substitute supervisor that she was ready to get into the training class to become a lead driver.

However, the substitute indicated on both occasions that he did not have any information on a class being arranged or scheduled for the claimant.

The claimant determined that the employer's failure to have the information ready and the class arranged when she called the substitute supervisor was an indication that the employer was not wanting her to return to work, and was retaliatory on the part of the employer for the claimant having spoken to an attorney representing other employees in an action against the employer for sexual harassment. However, the claimant had only speculation, and presented no evidence to substantiate that the employer had any negative feelings against her for speaking to the attorney, or that it had anything to do with the arrangements not being in place and communicated to the substitute supervisor on or by December 29 or January 2. The claimant also had negative feelings toward the employer due to negative experiences she had had with sexual harassment while working for the employer during her first period of employment, and felt the employer had failed to properly investigate her claims as promised, but there was no evidence the claimant had any continuing issues or problems during her second period of employment or that she had sought further action from the employer.

The claimant's regular supervisor returned on January 6, and contacted the claimant. He informed her that he had a training class arranged for her. However, the claimant then told him that she did not think that she was going to come back to the employer due to the concerns that the employer did not want her to come back because of not being prepared for her the prior week. The supervisor called the claimant again on January 7 or January 8 and left a message indicating that he was hoping that the claimant had changed her mind and would come back, but the claimant had not changed her mind, and so did not return the call or seek to return to work.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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 from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant's primary reason for leaving was the employer's delay of

about a week in being prepared to get the claimant into the training class. This is not good cause for quitting. While she had other bad feelings toward the employer, she acknowledged that had the training class been ready when she wanted to start it, she would not have quit simply because of those other negative feelings. The claimant's problems resulting in her separation from her first period employment, without repetition or continuation in the second period of employment, cannot constitute good cause for quitting the second period of employment. The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's February 2, 2009 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of January 6, 2009, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs