

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACY A MCMILLIAN
Claimant

APPEAL NO. 07A-UI-01671-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST INC
Employer

**OC: 01-14-07 R: 12
Claimant: Respondent (4)**

Iowa Code § 96.5(1)a – Voluntary Leaving – Other Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 6, 2007, reference 01, decision that allowed benefits and charged the employer. After due notice was issued, a telephone conference hearing was held on March 5, 2007. Claimant did not participate. Employer participated through Sandy Matt.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time over-the-road driver from December 29, 2005 until September 30, 2006, when she quit to take other employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her 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.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and either did perform services for the subsequent employer or was separated before having started the new employment. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The February 6, 2007, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 039128) shall not be charged.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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