

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEX W ALSTON
Claimant

APPEAL NO. 08A-UI-05558-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST INC
Employer

OC: 05/04/08 R: 12
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated June 6, 2008, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice a telephone conference hearing was scheduled for and held on June 30, 2008. The claimant participated. The employer participated by Sandy Matt, Human Resources Specialist.

ISSUES:

The issues in this matter are whether the claimant quit for good cause attributable to the employer and whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from September 13, 2006 until December 19, 2007 when he voluntarily quit the employment to begin self-employment as an owner/operator. Mr. Alston was employed as an over-the-road tractor/trailer driver for the captioned employer and was paid by the mile.

On December 19, 2007, Mr. Alston elected to leave his full-time employment as a driver with CRST in order to enter into self-employment as an owner/operator for a separate distinct division of the company. The claimant was aware at the time of hire that he needed a minimum of one year's tractor/trailer driving experience in order to qualify to later become an owner/operator. At the time of leaving the claimant had the choice of remaining as a driver with CRST or of leaving the company to begin self-employment as an owner/operator. Mr. Alston chose to leave his job with the company to be an owner/operator.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment

insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1. It is the claimant's burden to prove that a voluntary quit was for a good cause that would not disqualify him. The evidence in this case establishes that Mr. Alston had the option of remaining a company driver on a full-time basis or leaving his full-time position in order to be self-employed as an owner/operator for a separate distinct division of CRST. Mr. Alston chose the latter.

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.

For the reasons stated herein, the administrative law judge concludes that the claimant chose to voluntarily quit his employment with CRST in order to enter self-employment. While the claimant's reasons are good from a personal viewpoint, they were not attributable to the employer and thus are disqualifying under the provisions of the Iowa Employment Security Act.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law. The claimant is overpaid benefits in the amount of \$2,776.00.

DECISION:

The representative's decision dated June 6, 2008, reference 01, is hereby reversed. The claimant voluntarily quit employment for reasons not attributable to the employer.

Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided that he meets all other eligibility requirements of Iowa law. The claimant is overpaid unemployment insurance benefits in the amount of \$2,776.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs