

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTOINE M BREAUX**  
Claimant

**APPEAL NO. 09A-UI-17112-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 10/04/09**  
**Claimant: Respondent (2-R)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

CRST Van Expedited, Inc. (CRST) filed an appeal from a representative's decision dated November 2, 2009, reference 01, which held that no disqualification would be imposed regarding Antoine Breaux' separation from employment. After due notice was issued, a hearing was held by telephone on December 18, 2009. The employer participated by Lisa Oetken, Human Resources Generalist. Mr. Breaux did not respond to the notice of hearing.

**ISSUE:**

At issue in this matter is whether Mr. Breaux was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Breaux began working for CRST as an over-the-road driver on February 21, 2008. His last day of work was February 14, 2009, after which he began a period of "home time." He was to return to work seven days later but contacted the employer to request additional time off for medical reasons. The employer agreed to allow him the time and asked that he maintain weekly contact regarding his status.

Mr. Breaux contacted the employer the first two weeks but stopped calling thereafter. When the employer did not hear further from him by June 24, he was removed from payroll. Continued work would have been available if Mr. Breaux had returned to work or notified the employer of his intentions.

Mr. Breaux filed a claim for job insurance benefits effective October 4, 2009. He has received a total of \$3,280.00 in benefits since filing the claim.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Breaux abandoned his job when he stopped reporting for available work and failed to maintain contact with his employer. Therefore, his separation was a voluntary quit. An

individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Breaux did not participate in the hearing to explain why he stopped working for CRST. The evidence of record does not establish any good cause attributable to the employer for the separation. As such, benefits are denied.

Mr. Breaux has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

**DECISION:**

The representative's decision dated November 2, 2009, reference 01, is hereby reversed. Mr. Breaux quit his employment with CRST for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Mr. Breaux will be required to repay benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css