

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NATALIA V COOK

Claimant

APPEAL 16A-UI-09213-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC

Employer

OC: 07/17/16

Claimant: Appellant (2-R)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Admin. Code r. 871-24.28(5) – Quit for Other Employment

Iowa Admin. Code r. 871-23.43(5) – Quit for Other Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 19, 2016, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit for other employment without sufficient evidence that other employment was obtained. The parties were properly notified of the hearing. A telephone hearing was held on September 19, 2016. The claimant Natalia Cook participated and testified. The employer CRST Van Expedited Inc. participated through Human Resource Representative Kim Bateman. Claimant's Exhibits A through D were received into evidence.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a driver from November 25, 2016, until this employment ended on March 14, 2016, when she voluntarily quit. On March 14, 2016, claimant sent an email to the employer stating she had been hired for another position and was therefore resigning effective immediately. (Exhibit A). Had claimant not resigned, work would have continued to be available to her.

Claimant had begun working for her new employer, Werner Enterprises Inc. on March 11, 2016. (Exhibit B). Claimant worked for Werner Enterprises until she was separated from employment at the end of March. Following her separation claimant had positions with two other employers, Super Service LLC and Western Express Inc., but has since been separated from both of those employers.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the 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 § 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(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. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. 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. No charge shall accrue to the account of the former voluntarily quit employer.

Claimant left her position with the employer to accept another full time position. Claimant worked at her new job from March 11, 2016, until she was separated from employment in late March 2016. 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 did perform services for the subsequent employer before being separated from the new employment. Accordingly, benefits are allowed, provided the claimant is otherwise eligible, and the account of the employer shall not be charged.

DECISION:

The August 19, 2016, (reference 01) unemployment insurance decision is reversed. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 039128-000) shall not be charged.

REMAND:

Claimant testified, following her separation from this employer, she worked for and was separated from three additional employers: Werner Enterprises, Super Service LLC, and Western Express Inc. The issue of these subsequent separations is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Additionally, the issue of any possible combined wage claim is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/