

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGE W CROSS
Claimant

APPEAL NO. 07A-UI-07198-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST INC
Employer

**OC: 06/17/07 R: 12
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated July 12, 2007, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 8, 2007. Claimant participated. Employer participated by Sandy Matt, Human Resource Specialist. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on November 21, 2007. Claimant worked as a truck driver. Claimant worked as a driver with his spouse as a co-driver. Claimant was the lead seat driver while his spouse was the B seat driver. Claimant's partner was repeatedly sexually harassed by other workers. Multiple complaints were filed. Employer failed to take prompt adequate remedial measures.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of sexual harassment of his B seat driver. Employer had the opportunity to remedy the harassment but did nothing. Employer's testimony was primarily hearsay in nature. Claimant's in-person and sworn testimony is more credible than hearsay as an issue of law. Since claimant worked as a team with his spouse, he was justified in quitting due to unrelenting harassment of his partner. Benefits allowed.

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.

871 IAC 24.26(3), (4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(3) The claimant left due to unlawful working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

DECISION:

The decision of the representative dated July 12, 2007, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw