

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

GIDEON JOHNSON
3851 CARTHAGE ST
RIVERSIDE CA 92501

CRST INC
c/o TALX EMPLOYER SERVICES
PO BOX 1160
COLUMBUS OH 43216 1160

Appeal Number: 05A-UI-12039-DWT
OC: 10/16/05 R: 12
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

CRST, Inc. (employer) appealed a representative's November 18, 2005 decision (reference 01) that concluded Gideon Johnson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 13, 2005. The claimant participated in the hearing. Sue Aries was called, but she did not answer the phone. The claimant did not make arrangements prior to the hearing to have this person participate in the hearing. Sandy Matt, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer as an over-the-road driver on June 4, 2004. The claimant understood that if he wanted a holiday off from work, he needed to make an advance request. A number of times, the claimant asked for time off so he could be home during a holiday. Even though the claimant's dispatcher granted the claimant's request for time off during a holiday, for various reasons the employer did not make the necessary arrangements for the claimant to be at home during a holiday. Sometime prior to July 6, 2005, the claimant told his dispatcher that if she did not get him home for the July 4 holiday as the claimant requested and the employer had approved, the claimant would quit.

The claimant made a timely and proper request to be at home during the July 4 holiday. The employer granted the claimant's request. On July 3 the claimant was in Iowa and the employer informed him that a load could not be found to get him back home to California. The claimant spent the July 4th holiday in Iowa.

After the employer again failed to get the claimant home for a holiday, the claimant quit. The claimant parked the truck and left the keys for the employer. The claimant did not return to work for the employer after July 6, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause. Iowa Code §96.5-1. The claimant voluntarily quit his employment on July 6, 2005. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

Since the claimant's dispatcher did not participate in the hearing, the claimant's testimony is credible and was not refuted by the employer. The facts show there had been a pattern where the employer granted the claimant's timely requests to be at home during a holiday and then the employer did take the necessary steps to get the claimant home for a holiday. Prior to July 4, 2005, the claimant told the employer that if this problem continued, he would quit.

In early June 2004, the claimant made a request to be off work and at home during the July 4th holiday. The employer approved the claimant's request. On July 3, the claimant was in Iowa and the employer did not have a load to assign the claimant that would get him to California. The claimant quit because the employer was not trustworthy and failed to give the claimant time off as the claimant requested and the employer had approved. When an employer fails to follow up on approved days or time off, the employer has substantially changed the employment contract. 871 IAC 24.26(1). For unemployment insurance purposes, the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. As of October 16, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's November 18, 2005 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjf