

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELVIN TUCKER
Claimant

CRST VAN EXPEDITED INC
Employer

APPEAL 21A-UI-22052-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/22/21
Claimant: Appellant (1)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On October 5, 2021, the claimant/appellant filed an appeal from the October 1, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on the claimant voluntarily quitting because of a non-work-related illness or injury. The parties were properly notified about the hearing. A telephone hearing was held on December 2, 2021. Claimant participated at the hearing. Employer did not call into the hearing to participate. Exhibit A was admitted into the record. Administrative notice was taken of claimant's unemployment insurance benefits records.

ISSUES:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 19, 2020. Claimant last worked as a full-time CDL truck driver.

Claimant is diabetic and has high blood pressure. Claimant's conditions are pre-existing and are not caused by his employment. In August 2020, claimant began having health issues. Claimant was having high blood pressure and his glycohemoglobin was high. Claimant was required to undergo a DOT physical in August 2020, and he was not able to pass the physical because of his health conditions. Claimant took some time off of work to get his health conditions under control so he could pass his DOT physical. A few weeks later claimant was able to pass his DOT physical. Claimant returned to work and continued working as a truck driver.

After claimant returned to work he began having health issues again. On or about October 30, 2020, claimant called his employer and verbally resigned. Claimant informed the employer that he was resigning due to his health conditions. Claimant did not think it was safe for him to continue

driving the truck when he was getting dizzy. Claimant did not want to injury someone else or himself due to his health conditions. Claimant was not on a physician's restriction that would limit his ability to work. Claimant did not work after he informed employer that he was resigning. Claimant did not file for benefits until week beginning August 21, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.25(37) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

In this case the claimant resigned his position because he was having health issues. The claimant testified that these health conditions were not caused by his employment. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The October 1, 2021, (reference 01) unemployment insurance decision is **AFFIRMED**. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

January 5, 2022
Decision Dated and Mailed

cs/mh

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits but who were unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.