

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDWARD D DENWITTY
Claimant

APPEAL NO. 12A-UI-00685-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 12/04/11
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Edward Denwitty filed a timely appeal from the January 5, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 15, 2012. Mr. Denwitty participated. Sandy Matt represented the employer. The administrative law judge took official notice of the Agency administrative file documents submitted for or generated in connection with the December 30, 2011 fact-finding interview.

ISSUE:

Whether Mr. Denwitty's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Edward Denwitty has been employed by CRST Van Expedited, Inc., on two separate occasions. The most recent employment began in June 2011 and ended on December 1, 2011, when Mr. Denwitty voluntarily quit. Mr. Denwitty was employed as a full-time over-the-road truck driver and driver trainer. Mr. Denwitty quit the employment because he had anxiety and/or fear about driving in winter weather conditions. The employer did not expect Mr. Denwitty to operate his truck in unsafe travel conditions. Mr. Denwitty's decision to leave the employment was not based on a diagnosed mental health condition and not based on advice he had received from a doctor. Mr. Denwitty suffers from diabetes and high blood pressure, both of which are treated through oral medication. After Mr. Denwitty separated from the employment, he met with his regular doctor, who referred him for a behavioral health assessment to see whether something might be done to alleviate Mr. Denwitty's anxiety. Mr. Denwitty went to an initial behavioral health consult, but did not return for an additional appointment. Mr. Denwitty was not interested in taking medication to address his anxiety issues. At the time, Mr. Denwitty separated from the employment, the employer continued to have work available to him.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record indicates that Mr. Denwitty separated from the employment for personal reasons and not for good cause attributable to the employer. The evidence fails to establish a medical diagnosis that made it necessary for Mr. Denwitty to leave the employment to avoid harm. The evidence fails to establish that the quit was based on medical advice. See 871 IAC 24.26(6). Because Mr. Denwitty voluntarily quit the employment without good cause attributable to the employer, Mr. Denwitty is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Denwitty.

DECISION:

The Agency representative's January 5, 2012, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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