

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL E FRISCIA**  
Claimant

**APPEAL NO. 10A-UI-05632-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 03/14/10**  
**Claimant: Respondent (2-R)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated April 5, 2010, reference 01, that concluded he voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on May 27, 2010. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Sandy Matt participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant was employed as an over-the-road truck driver for the employer from January 15, 2009, to June 20, 2009. He was paid by the mile for his driving.

The claimant informed his fleet manager on June 20 that he was quitting his job because he was not making enough money. He was advised when he was hired that there was no guarantee as to the number of miles he would receive as it depended on the amount of freight available.

The claimant filed for and received a total of \$1,312.00 in unemployment insurance benefits for the weeks between March 14 and May 8, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

The unemployment insurance rules provide that the claimant who leaves employment due to dissatisfaction with wages but knew the rate of pay when hired has quit without good cause. 871 IAC 24.25(13). Based on the statute and this rule, the claimant is disqualified from receiving unemployment insurance benefits.

The unemployment insurance law requires benefits to be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. But the overpayment will not be recovered when an initial determination to award benefits is reversed on appeal on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

**DECISION:**

The unemployment insurance decision dated April 5, 2010, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css