

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

KING A TODD
4054 COLONY RD
SOUTH EUCLID OH 44121

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

Appeal Number: 05A-UI-11380-BT
OC: 10/09/05 R: 12
Claimant: Respondent (2)

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 an unemployment insurance decision dated October 26, 2005, reference 01, which held that King Todd (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 22, 2005. The claimant participated in the hearing. The employer participated through Sandy Matt, Human Resources Specialist.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time over-the-road

truck driver for this transportation company from June 3, 2004 through June 20, 2005. He was considered to have voluntarily quit his employment when he did not return to work and did not contact his employer. He was paid for a trip he made from Manchester, New Hampshire, to Grove City, Ohio, on June 7, 2005. The trip was a total of 762 miles and the claimant had a co-driver, so he was only paid for 381 miles. He received a rate of 18 cents per mile, since that was also split with his co-driver, and \$164.52 was deposited into his comp data account. His last date of employment was June 8, 2005, and after that he went home for a few days off work. The claimant called the employer when he was supposed to return to work and stated that he needed some time off to see his doctor about his blood pressure. The employer allowed him to take a few days off but never heard from him after that date and was unable to reach him. The employer finally had to have the truck towed.

The claimant filed a claim for unemployment insurance benefits effective October 9, 2005 but has not received benefits from this claim as he was disqualified from a different employer.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

Rule 871 IAC 24.25 provides that, 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. 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). The claimant demonstrated his intent to quit and acted to carry it out by failing to return to work or to contact the employer.

Although the claimant testified that he was discharged, his testimony was not as credible as the employer's because the claimant had some memory problems. The claimant testified that his last day of work was June 2, 2005, when the evidence shows he was paid for a trip he made from Manchester, New Hampshire, to Grove City, Ohio, on June 7, 2005. The claimant may not have planned on quitting his employment, but the employer could only evaluate his objective actions, which included his failure to maintain contact with the employer or to return to work. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated October 26, 2005, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. There is no overpayment as a result of this decision.

sdb/kjw