

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL P KEOGAN
Claimant

APPEAL NO. 09A-UI-16027-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 09/20/09
Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

CRST Van Expedited, Inc. (CRST) filed an appeal from a representative's decision dated October 13, 2009, reference 01, which held that no disqualification would be imposed regarding Daniel Keogan's separation from employment. After due notice was issued, a hearing was held by telephone on December 1, 2009. The employer participated by Sandy Matt, Human Resources Specialist, and Kim Merta, Fleet Manager. Mr. Keogan did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Keogan was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Keogan began working for CRST as an over-the-road driver on February 20, 2009. He last performed services on May 12, 2009. He was to have six days of "home time" before returning to work on May 21. He spoke with the employer on two occasions while off to extend his time. He was allowed an extension but was told he had to return on June 9 or he would not have a job.

Mr. Keogan did not return to work or contact the employer on June 9 or any date thereafter. He was required to contact either the fleet manager or the dispatcher on at least alternate days. He did not contact either person on or after June 9. He had not complained about any work-related matters before the separation. Continued full-time work would have been available if Mr. Keogan had returned to work or had notified the employer of his intentions.

Mr. Keogan filed a claim for job insurance benefits effective September 20, 2009. He has received a total of \$936.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that Mr. Keogan abandoned his job when he stopped reporting for available work without notice to the employer. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Keogan had not complained about any issues prior to quitting. Therefore, the employer was deprived of the opportunity to correct whatever work-related matters may have caused him to quit.

Mr. Keogan did not participate in the hearing to explain why he stopped working for CRST. The evidence of record does not establish any good cause attributable to the employer for the separation. As such, benefits are denied.

Mr. Keogan has received job insurance benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated October 13, 2009, reference 01, is hereby reversed. Mr. Keogan voluntarily quit his employment with CRST for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible. This matter is remanded to Claims to determine if Mr. Keogan will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs