

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORAN JACKSON

Claimant

APPEAL NO. 10A-UI-02083-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC

Employer

Original Claim: 01-03-10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 25, 2010, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on March 22, 2010. The claimant participated in the hearing. The employer provided a phone number prior to the hearing but was not available at that number at the time of the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time over-the-road truck driver for CRST Van Expedited from January 29, 2009 to December 31, 2009. At the time of hire, the claimant was told he would be paid \$0.33 per mile and would get between 2,500 and 3,000 miles per week, but the claimant testified he never received that many miles and his pay decreased with almost every paycheck. After eight months, he was eligible to become a trainer and make \$0.38 per mile; but, after doing so, he stated the employer would give him a short route the first week of his student's training period, which lasted for 28 days, so he did not end up making much, if any, more money as a trainer. He testified the first month he worked his average earnings were \$800.00 per week but the last month he worked he earned \$700.00 total after his child support was taken out for the month. The claimant stated he spoke to Fleet Manager Matt Hoffman in October 2009 and told him he needed more miles or he would have to quit his job and Mr. Hoffman said he would give him more miles but did not do so and, consequently, he voluntarily quit effective December 31, 2009.

The administrative law judge took judicial notice of the administrative file, which showed he made \$4,266.00 during the first quarter of 2009; \$4,114.00 during the second quarter of 2009; \$4,154.00 during the third quarter of 2009; and \$5,243.00 during the fourth quarter of 2009.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment 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.

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant testified he believed he would get 2,500 to 3,000 miles per week at \$0.33 per mile but after eight months his wages were declining because he was not getting the number of miles he was told he would be getting. He stated he became a trainer but still did not make enough or what he expected at the time of hire. The claimant's wage records contained in the administrative file, however, show that he made \$4,266.00 during the first quarter of 2009; \$4,114.00 during the second quarter of 2009; \$4,154.00 during the third quarter of 2009; and \$5,243.00 during the fourth quarter of 2009. Because the claimant's testimony does not comport with the administrative file, the administrative law judge must conclude that the claimant's wages did not decrease from his time of hire but instead increased. Inasmuch as the claimant suffered a slight, if any, change in the number of hours or wages of the original terms of hire, it cannot be considered substantial. Therefore, benefits must be denied.

DECISION:

The January 25, 2010, reference 01, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw