

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NATASHA T WILBURN**  
Claimant

**APPEAL NO: 12A-UI-06820-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST FLATBED REGIONAL INC**  
Employer

**OC: 05/06/12**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's June 5, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for non-disqualifying reasons. The claimant participated in the hearing. Michael Herzburger, the operations manager, appeared on the employer's behalf. Based on the evidence, the parties' arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in August 2010 as an over-the-road driver. She drove a dedicated route with a co-driver, J. The dedicated route was Florida to Ohio. This route included a stop at a Caterpillar facility.

On April 14, the security guards at a Caterpillar would not allow the claimant and J. to take a trailer because the security guards concluded the trailer was not safe. The claimant and J. were unable to leave this facility for hours. After the claimant and J. finally received clearance to leave and were leaving, a security guard reported that the female driver yelled an obscenity at a security guard and also made an obscene gesture to him. This Caterpillar facility banned the claimant and J. from going there again. The next day, the employer learned the claimant was banned from this Caterpillar facility.

Once a customer has banned a driver from a facility, the employer cannot assign that driver to that dedicated route. Since neither the claimant's nor J.'s job was in jeopardy before this incident, the employer gave both J. and the claimant opportunity to work as over-the-road drivers for CRST Van Expedited, another branch of the employer's business. J. accepted continued work with Van Expedited. The claimant could have continued to work with J., but she did not believe it was fair that the employer took the security guard's report as an accurate accounting of what happened at the Caterpillar facility. The claimant told the employer "no thank you" to working with CRST Van Expedited.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. After the Caterpillar facility banned the claimant and her co-driver from the facility, the employer could not allow the claimant to work on that dedicated route. The claimant could have continued to work, just as J. did, as an over-the-road driver, on different routes.

Since the security guard's report described J.'s conduct more negative than the claimant's conduct, the employer's testimony that the claimant had continued employment is credible. The facts do not establish that the employer discharged the claimant. Instead, the claimant chose to end her employment when she could have continued driving a non-dedicated route. The claimant quit her employment. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The claimant's assertion that the employer ultimately did not offer her a non-dedicated route is not credible. Since her alleged conduct was not as serious as J.'s alleged conduct, it was logical for the employer to make sure she continued driving instead of J. Also, while the incident at the Caterpillar facility was frustrating, it does not make sense for the security guard to lie in a business record about her conduct when she and J. had been given permission to leave the facility. Since the claimant appears to be a strong-willed individual, it is highly probably that she could or did remain silent about the security guard's perceived arrogant and rude conduct.

The claimant chose to stop working even though the employer had continuing work available for her to do. For unemployment insurance purposes, the claimant quit her employment for personal reasons, but her reasons do not qualify her to receive benefits. As of May 6, 2012, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits she has received since May 6, 2012, will be remanded to the Claims Section to determine.

**DECISION:**

The representative's June 5, 2012 determination (reference 01) is reversed. The claimant voluntarily quit when she declined to accept continuing work the employer had available for her to do. The claimant quit for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 6, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw