

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RODERICK L BROWN
Claimant

APPEAL NO. 13O-UI-07519-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST FLATBED REGIONAL INC
Employer

OC: 01/13/13
Claimant: Respondent (1)

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving - Layoff
Section 871 IAC 23.43(9)a – Relief of Charges

STATEMENT OF THE CASE:

CRST Flatbed Regional (employer) appealed a representative's March 15, 2013 decision (reference 03) that concluded Roderick Brown (claimant) was eligible to receive unemployment insurance benefits. This administrative law judge issued a decision and a Nunc Pro Tunc Decision on April 19, 2013, affirming the representative's decision. A decision of remand was issued by the Employment Appeal Board on June 24, 2013. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 2, 2013. The claimant participated personally. The employer participated by Sandy Matt, Human Resources Specialist. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 4, 2011, as a full-time over-the-road driver. The claimant was laid off for lack of work on February 25, 2012, because the claimant drove with a partner and the partner was unavailable. The employer has a list of co-drivers but none of the co-drivers lived in the same state as the claimant. The claimant could not find a co-driver that was within a reasonable distance of his state. He notified the employer of this problem and the employer could not provide the claimant with another partner/driver either.

On March 6, 2012, the claimant took a job with Heartland Express from March 6 through June 1, 2012. From June 13 through July 10, 2012, the claimant was an independent contractor for the employer. He filed for unemployment insurance benefits with an effective date on January 13, 2013.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

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 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The employer laid the claimant off for lack of work on February 25, 2012. When an employer suspends a claimant from work status, the separation does not prejudice the claimant. The claimant's separation was attributable to a lack of work by the employer. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's March 15, 2013 decision (reference 03) is affirmed. The claimant was laid off due to a lack of work. The claimant would be eligible to receive unemployment insurance benefits under Iowa Law. Therefore, the employer should not be relieved of charges.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs