

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES C WOLF
Claimant

APPEAL NO. 10A-UI-12754-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 08/08/10

Claimant: Appellant (5)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

James C. Wolf (claimant) appealed a representative's September 3, 2010 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from CRST Van Expedited, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 27, 2010. The claimant participated in the hearing. Sandy Matt appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on February 2, 2009. He worked full-time as an over-the-road truck driver. His last day of work was July 14, 2010.

The claimant and his co-driver were taking a shipment from California to Connecticut. While near the New Jersey/Pennsylvania border on July 14 the claimant began to have chest pains and pulled over to the shoulder of the road so his co-driver could take over driving. The co-driver drove the truck to a local truck stop, where an ambulance came and took the claimant to a local hospital. The claimant was kept overnight in the emergency room and was told he had an aneurysm in the area of his heart. The following day he checked himself out of the hospital and was picked up by the co-driver. He then spoke with one of the employer's dispatcher/fleet managers, indicating that he was still too ill to drive. Because of concerns about the claimant's health and what could happen if there were further complications while he was in the truck, the dispatcher/fleet manager told the claimant that if he was too ill to drive, he could not be in the truck. Therefore, arrangements were made to get the claimant to a bus station and to get him on a bus to take him to South Carolina, where his mother lived.

The claimant arrived in South Carolina on July 17 or July 18. Upon his arrival, he went to the hospital there, where again he was kept overnight. The doctors had wanted to keep him in the hospital for about five days for observation, but he checked himself out after the first night. On July 27 there was contact between the claimant and his regular dispatcher/fleet manager; she advised him that she would need a medical release in order for the claimant to return to work. He indicated that he thought he had a follow up medical appointment coming up, and that he would call her back with that information.

The claimant checked with the doctor's office, and learned that in fact he did not have an appointment scheduled. However, he did not pursue obtaining a medical release and did not recontact the employer, as he had already decided that he was not interested in returning to work with the employer, as he was unhappy about the employer not allowing him to remain in the truck when he was too ill to drive, but rather requiring that he be bused to his mother's home. When the claimant did not further recontact the employer and did not respond to the employer's attempts to contact him, on August 3 the employer concluded that the claimant had quit by job abandonment.

REASONING AND CONCLUSIONS OF LAW:

A voluntary quit is a termination of employment initiated by the employee – where the employee has taken the action which directly results in the separation; a discharge is a termination of employment initiated by the employer – where the employer has taken the action which directly results in the separation from employment. 871 IAC 24.1(113)(b), (c). A claimant is not eligible for unemployment insurance benefits if he quit the employment without good cause attributable to the employer or was discharged for work-connected misconduct. Iowa Code §§ 96.5-1; 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 and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The intent to quit can be inferred in certain circumstances. For example, failing to report and perform duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27). The employer's action to send the claimant home on a bus because he was too ill to drive was not a discharge of the claimant. The separation occurred when the claimant chose not to pursue returning to work after being sent home for medical attention; therefore, the separation is considered to be a voluntary quit. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). Where the claimant had declined to stay in the hospital for medical observation and treatment but was still admittedly too sick to drive, the employer's insistence that he not remain in the truck was not unreasonable. The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v.

Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's September 3, 2010 decision (reference 01) is modified with no effect on the parties. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 3, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw