

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID ESTRADA

Claimant

APPEAL NO. 11A-UI-15453-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC

Employer

OC: 10/23/11

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

David Estrada filed a timely appeal from an unemployment insurance decision dated November 22, 2011, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held January 5, 2012 with Mr. Estrada participating and presenting additional testimony by Norm Bohler. Sandy Matt and Eric Lake participated for the employer, CRST Van Expedited, Inc. Exhibits A and D-1 were admitted into evidence. This matter is considered on a consolidated record with 11A-UI-15454-AT.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

David Estrada was employed as an over-the-road truck driver by CRST Van Expedited, Inc. beginning on December 18, 2009. He last performed services for the company on October 5, 2011. On that day Mr. Estrada told Fleet Manager Eric Lake that tickets had been issued to him in both Tennessee and Oregon. October 5, 2011 was the date that he needed to take care of the matter in Tennessee. He told Mr. Lake that he, Mr. Estrada, would pay the ticket. Mr. Estrada, however, did not have the necessary funds to pay the ticket at that time. He also did not have funds to continue paying his cell phone bill. Mr. Lake kept in contact with Mr. Estrada using that cell phone number. After several weeks, Mr. Lake removed Mr. Estrada from the company's system because he could not contact Mr. Estrada. Mr. Estrada called Mr. Lake on January 4, 2012 to discuss the possibility of his returning to work.

Mr. Lake and Mr. Estrada had been working with one another for only 15 days prior to October 5, 2011. Mr. Estrada asked Mr. Lake for assistance in getting a higher rate of pay for some miles that he had driven while working with another fleet manager. Although Mr. Estrada normally operated as part of a driving team, in the summer of 2011 he had driven for several weeks as a solo driver. Solo drivers are paid a lower mileage rate than team drivers. Mr. Lake had agreed to help and had submitted paperwork which later in October resulted in Mr. Estrada receiving supplemental pay for his solo miles. Mr. Estrada had never been guaranteed any

particular number of miles per month. Driving teams split up for various reasons. Mr. Estrada was looking for a different co-driver in October.

Mr. Estrada did not unconditionally refuse to continue driving for CRST. On October 5 he told Mr. Lake that he would take no more loads until the prior pay issue had been resolved. Mr. Lake was unable to reach Mr. Estrada after the resolution.

REASONING AND CONCLUSIONS OF LAW:

The testimony establishes that no words of unconditional resignation or discharge were spoken. Mr. Estrada acknowledged that he said that he would not take any more loads until the resolution of the pay issue. The evidence persuades the administrative law judge that Mr. Estrada was unwilling to take more loads because of the outstanding citations in Tennessee and Oregon. These appear to be matters of personal responsibility. The citations were issued in Mr. Estrada's name, not the company's name. There is no evidence that Mr. Estrada asked that the company advance him the money to pay the tickets. Indeed, there is some indication in the record that Mr. Estrada had already received advances that he had not yet earned as of October 5, 2011. The administrative law judge concludes that Mr. Estrada knew or reasonably should have known that the company could not contact him because he had not paid his cell phone bill. Separation from employment under these circumstances is better characterized as a quit than a discharge.

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.

The claimant has the burden of proof. See Iowa Code section 96.5-1. Resignation because of dissatisfaction with wages is considered to be resignation without good cause attributable to the employer. See 871 IAC 24.25(13). One who resigns because of dissatisfaction with the work environment is disqualified for benefits according to 871 IAC 24.25(21). Since Mr. Estrada had not been guaranteed any set number of hours, resignation because he was not earning as much money as he desired amounts to dissatisfaction with the work environment.

Considering each of the stated reasons for the separation and considering the totality of the circumstances, the administrative law judge concludes that the separation was without good cause attributable to CRST Van Expedited, Inc. Benefits are withheld.

DECISION:

The unemployment insurance decision dated November 22, 2011, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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