

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RC BYRD**  
Claimant

**APPEAL NO. 12A-UI-03064-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 02/05/12**  
**Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit  
Section 96.4-3 - Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated March 21, 2012, reference 01, that concluded he requested and was granted a leave of absence and was considered voluntarily unemployed. A telephone hearing was held on April 10, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Elizabeth Thomas. Sandy Matt participated in the hearing on behalf of the employer. Exhibit A was admitted into evidence at the hearing.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The claimant worked full-time for the employer as a truck driver from March 16, 2011, to August 25, 2011. He fractured his shoulder at work when his co-driver turned over the tractor-trailer-rig. He was off work with a doctor's excuse.

He was receiving workers' compensation until January 27, 2012, when the doctor released him to return to work without any restriction on his ability to drive. The doctor certified that the claimant was qualified to operate a commercial motor vehicle under Department of Transportation rule 49 CFR 391.41. This release was provided to the employer.

Despite this full release, the employer would not allow the claimant to return to work until he completed a sleep apnea study triggered by the claimant being deemed to be at high-risk for sleep apnea because his neck size of 17 inches or more. This study is not currently a Department of Transportation requirement. The claimant does not suffer from sleep apnea but has been willing to take the study. There has been some delay in setting up and completing the test, which was scheduled for April 30, 2012.

The claimant filed a claim for unemployment insurance benefits effective February 5, 2012. He has been able to work and available for work as a truck driver since that date. He has not requested a leave of absence or been voluntarily unemployed since February 5, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer, who are discharged for work-connected misconduct, or who fail to accept an offer of suitable work without good cause. Iowa Code § 96.5-1, 96.5-2-a, and 96.5-3.

The unemployment insurance law provides that individual is qualified to receive benefits if he: (1) left employment because of illness, injury, or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that he needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but his regular work or comparable suitable work was not available. Iowa Code § 96.5-1-d.

I conclude that the claimant has satisfied all the requirements of Iowa Code § 96.5-1-d and is not disqualified based on the reasons for his separation from work. He had a full release to return to truck driving, but the employer imposed an additional requirement. The claimant should not be denied benefits while additional requirements, beyond any required by law, are completed.

The final issue in this case is whether the claimant is able to work and available for work as required by the unemployment insurance law in Iowa Code § 96.4-3. The evidence establishes that the claimant was fully released to work without restrictions when he applied for benefits. He was able to work.

**DECISION:**

The unemployment insurance decision dated March 21, 2012, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw