

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FREDERICK MULLER
Claimant

APPEAL NO. 09A-UI-06828-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

**Original Claim: 03/22/09
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Frederick Muller (claimant) appealed an unemployment insurance decision dated April 24, 2009, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with CRST Van Expedited, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 29, 2009. The claimant participated in the hearing. The employer participated through Matt Hoffman, Fleet Manager/Dispatcher, and Sandy Matt, Human Resources Specialist. 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:

The issue is whether the employer's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time co-driver from November 17, 2008 through January 19, 2009. He and his co-driver had been waiting for a load in Carlisle, Pennsylvania, since January 16, 2009, but the truck needed some work to be done on it. The claimant's co-driver, John, contacted the dispatcher and requested he be placed with another co-driver because he could not get along with the claimant. John did not want to address this with the claimant, because he knew the claimant would be angry. When the dispatcher told the claimant he needed to find another driver, he was angry.

Since the claimant did not have a co-driver, he was taken out of the truck and another team took it. The claimant needed to find another co-driver and could have stayed in a hotel until that was done, but he told the dispatcher he wanted money to go home and it was given to him. The claimant could have contacted the employer after returning home to request a list of available co-drivers, but he did not want to train anyone else. He did fax the dispatcher a request for reimbursement for taxi expenses but claimed he could not reach the dispatcher. The employer only employs co-drivers, and the claimant could have had additional work at any time once he found a co-driver. The employer considers employees to have voluntarily quit if they fail to contact the employer for a 21-day period. The claimant was considered to have voluntarily quit his employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

Iowa Code § 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 24.25(6) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(6) The claimant left as a result of an inability to work with other employees.

The claimant's co-driver requested to drive with another employee, as he and the claimant did not get along. Consequently, the claimant had to find another co-driver from a list that would have been provided to him by the dispatcher, but he failed to do so. The claimant failed to contact the employer and was eventually considered a voluntary quit. He contends that he could not get a hold of the dispatcher, but the evidence demonstrates he did not make much of an effort. Even if he did not have the dispatcher's telephone number, he could have obtained that from the operator. Additionally, if he really wanted to reach the dispatcher, he could have faxed him, as he had successfully done so before.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated April 24, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw