

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRED W CUNNINGHAM
Claimant

APPEAL NO: 14A-UI-01668-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 01/05/14

Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Fred W. Cunningham (claimant) appealed a representative's February 7, 2014 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with CRST Van Expedited, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 6, 2014. The claimant participated in the hearing. Sandy Matt appeared on the employer's behalf. During the hearing, Claimant's Exhibit A was entered into evidence. 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?

OUTCOME:

Reversed. Benefits allowed.

FINDINGS OF FACT:

The claimant started working for the employer on April 17, 2013. He worked full time as an over-the-road truck driver. His last day of work was on or about December 24, 2013. He voluntarily quit on January 7, 2014. His reason for quitting was because the employer continually paired him up with inexperienced drivers who caused safety incidents endangering the claimant's health.

The claimant had been through about three inexperienced co-drivers as of December 24. Each of them had caused safety incidents which caused the claimant to feel too insecure to sleep as he should when he was off duty. He had informed the employer of his concerns regarding the lack of experience of his assigned co-drivers. The final incident was on December 22 when the co-driver hit something big on the highway but did not stop to see what he had hit or what damage might have been caused.

The claimant reported the incident on December 23; he was then issued a rental car to drive to his home, where he arrived on December 24. He was then on scheduled home time through about December 27. On January 2 his fleet manager asked him if he was ready to go back to work; he responded that he did not know, that he would think about it, but that he would not unless it was with an experienced driver. When the employer did not find an experienced driver to pair with the claimant, on January 7 the claimant indicated he would not return to the employment.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. 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 claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

Intolerable or detrimental working conditions are good cause for quitting attributable to the employer. 871 IAC 24.26(4). The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Benefits are allowed.

DECISION:

The representative's February 7, 2014 decision (reference 01) is reversed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs