

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL D BLADES
Claimant

APPEAL NO. 08A-UI-06506-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST INC
Employer

OC: 09/30/07 R: 02
Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

CRST, Inc. filed an appeal from a representative's decision dated July 10, 2008, reference 05, which held that no disqualification would be imposed regarding Michael Blades' separation from employment. After due notice was issued, a hearing was held by telephone on July 30, 2008. Mr. Blades participated personally. The employer participated by Sandy Matt, Human Resources Specialist.

ISSUE:

At issue in this matter is whether Mr. Blades was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Blades was employed by CRST, Inc. from January 31 until June 6, 2008 as an over-the-road driver. He voluntarily quit the employment. At the time of hire, he signed a document that advised he would be paid \$0.22 per mile to start. After one or two months, the pay was to increase to \$0.26 per mile and, after three months, \$0.30 per mile. After six months of employment, the pay would increase to \$0.33 per mile. At the time of separation, Mr. Blades was being paid \$0.30 per mile.

The employer has a per diem program whereby \$0.02 per mile is paid as non-taxable income. The intent is to give the drivers more take-home pay since taxes would not be withheld from the \$0.02 per mile. Mr. Blades asked to opt out of the program but was told it was mandatory. He did not advise the employer that he would quit if required to remain on the per diem program.

The recruiting materials Mr. Blades received indicated the employer would get drivers home based on specific requests. He requested to have June 5 off but was not brought home until June 6. He told the employer he wanted to be home on June 5 for personal reasons but did not tell the employer his son was leaving the country on that date. Mr. Blades never notified the employer that he intended to quit if certain work-related issues were not resolved. When he told his fleet manager that he was quitting because of the pay, he was offered work with a different division of the company that could provide him a dedicated route. He declined to transfer to a different division. Continued work would have been available if he had not quit.

Mr. Blades filed an additional claim for job insurance benefits effective June 15, 2008. He has received a total of \$909.00 in benefits since filing the additional claim.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Blades quit his job with CRST, Inc. because of the pay. He acknowledged that he did not review the written material that disclosed his pay rate at the time of hire. The administrative law judge is satisfied that he was, in fact, being paid the per-mile rate agreed to at the time of hire.

It appears that the crux of the pay issue concerns the per diem program. The evidence is conflicting as to whether Mr. Blades was being shorted \$0.02 per mile in his pay under the per diem program. Even if there was a shortage, he did not put the employer on notice that he intended to quit over the issue. Therefore, he deprived the employer of the opportunity to either restore the pay or provide a satisfactory explanation of the program. Since he failed to notify the employer of the intent to quit over any other work-related issues, he deprived the employer of the opportunity to try to salvage the employment relationship.

Mr. Blades' decision to quit was prompted by the employer's failure to get him home on June 5. He knew at least a week in advance that he would have June 6 off rather than June 5. The employer had no way of knowing that his personal business could not be handled on June 6 rather than June 5. The employer may well have taken different steps had it known Mr. Blades wanted to be home to see his son off. He did not have any other issues with the employer getting him home when requested.

After considering all of the evidence, the administrative law judge concludes that Mr. Blades' quit was not for good cause attributable to the employer. As such, benefits are denied. He has received benefits since filing his additional claim. Iowa law requires that overpayments be recovered even if a claimant is not at fault in creating the overpayment. However, an overpayment caused by the reversal of a decision regarding the claimant's separation can be waived under certain circumstances. An overpayment may be waived if there was no fraud or willful misrepresentation on the part of the claimant and the employer failed to participate in the initial proceeding from which benefits were allowed. This matter is remanded to the Claims Section to determine the amount of the overpayment and whether Mr. Blades will be required to repay benefits. The employer's account will not be charged regardless of whether Mr. Blades has to repay benefits.

DECISION:

The representative's decision dated July 10, 2008, reference 05, is hereby reversed. Mr. Blades quit his employment with CRST, Inc. for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. This matter is remanded to Claims to determine the amount Mr. Blades has been overpaid and whether the benefits must be repaid.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw