

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JAMES R ROBERTS
1930 WODEN ST
SAN DIEGO CA 92113**

**CRST INC
c/o SHEAKLEY UNISERVICE
PO BOX 1160
COLUMBUS OH 43216-1160**

**Appeal Number: 04A-UI-03810-DT
OC: 02/29/04 R: 12
Claimant: Appellant (4)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.28(1) – Requalification

STATEMENT OF THE CASE:

James R. Roberts (claimant) appealed a representative's March 24, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from CRST, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 28, 2004. The claimant participated in the hearing. Sandy Matt appeared on the employer's behalf. The record was held open through the end of the day of the hearing for submission of Claimant's Exhibit A, which was received and 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's July 4, 2003 separation disqualify him from benefits and is the employer's account subject to charge?

FINDINGS OF FACT:

The claimant started working for the employer on June 26, 2002. He worked full time as an over-the-road truck driver in the employer's transportation business. His last day of work was July 2, 2003. On July 4, 2003, he was arrested and incarcerated through October 5, 2003. Through his wife, he asked his dispatcher to give him a leave of absence, which was not granted. The employer considered the claimant to have voluntarily quit by failing to return to his scheduled work on July 11, 2003.

The claimant established a claim for unemployment insurance benefits effective February 29, 2004. His weekly benefit amount was calculated to be \$311.00. After being released from custody on October 5, 2003, the claimant obtained other employment and earned at least \$3,110.00 with another employer.

REASONING AND CONCLUSIONS OF LAW:

The wages the claimant earned with the employer are in his base period. The employer asserted the claimant voluntarily quit as he did not report for work as scheduled. However, this issue does not need to be addressed because after the claimant worked for the employer but before he filed his claim for benefits February 29, 2004, he earned more than \$3,110.00 in wages from another employer. As a result, the reasons for his separation in July 2003 do not affect the claimant's eligibility to receive unemployment insurance benefits. 871 IAC 24.28(1). This also means the employer's account will not be charged for any benefits the claimant received during his current benefit year.

DECISION:

The representative's March 24, 2004 decision (reference 01) is modified in favor of the claimant. The claimant requalified to receive unemployment insurance benefits after the ending of his employment with the employer. Since the claimant has requalified to receive unemployment insurance benefits, the employer's account will not be charged.

ld/kjf