

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLTON L MOORER
Claimant

APPEAL NO. 07A-UI-02769-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST INC
Employer

**OC: 01/28/07 R: 12
Claimant: Respondent (2)**

Section 96.5(1) – Quit
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, CRST, filed an appeal from a decision dated March 9, 2007, reference 01. The decision allowed benefits to the claimant, Carlton Moorner. After due notice was issued, a hearing was held by telephone conference call on April 4, 2007. The claimant participated on his own behalf. The employer participated by Human Resources Specialist Sandy Matt.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Carlton Moorner was employed by CRST from November 30, 2005 until September 10, 2006, as a full-time over-the-road truck driver. On September 2, 2006, he was scheduled for “home time,” a period of unscheduled days after he had been on the road for a few weeks. The dispatcher, Jason, told him at that time there weren’t any dispatches for him.

On or about September 10, 2006, the dispatch supervisor, John, called the claimant asking about his truck. The claimant reported what Jason had said about there not being any dispatches and John acknowledged work was somewhat slow. At that time the claimant said he was “going to look for something better” with another company and John asked him to return the truck.

Mr. Moorner did not find other employment at that time, as he was in Florida assisting his parents for a period of months. He has not worked for any other company through the date of the hearing.

Carlton Moorner has received unemployment benefits since filing a claim with an effective date of January 28, 2007.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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(3) 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 section 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 section 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:

(3) The claimant left to seek other employment but did not secure employment.

Continued work was available to the claimant with CRST, even if the work was somewhat slow. Instead of filing a claim for partial benefits, Mr. Moorer notified the employer he was "going to look for something better," and agreed to return the truck. Although he may have intended to find another job, he did not, due to personal family matters. This does not constitute good cause attributable to the employer and the claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of March 9, 2007, reference 01, is reversed. Carlton Moorner is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$2,344.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw