

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EDWARD L WHITE**

Claimant

**APPEAL NO. 12A-UI-09006-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**

Employer

**OC: 04/22/12**

**Claimant: Appellant (1)**

Section 96.5(1) – Quit

Section 96.6(2) – Timeliness

**STATEMENT OF THE CASE:**

The claimant, Edward White, filed an appeal from a decision dated July 16, 2012, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on August 21, 2012. The claimant participated on his own behalf. The employer, CRST, participated by Human Resources Specialist Sandy Matt. Exhibit D-1 was admitted into the record.

**ISSUE:**

The issue is whether the claimant's appeal is timely and whether he quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

A disqualification decision was mailed to the claimant's last-known address of record on July 16, 2012. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by July 26, 2012. The appeal was not filed until July 27, 2012, which is after the date noticed on the decision.

The claimant was not able to specify the date on which he actually received the decision and made only vague references to calling "the lady" in Des Moines, Iowa, without indicating what amount of time actually elapsed between the date of receipt and the date of the call. In any event he maintained he had faxed the appeal the same day he contacted Iowa Workforce Development.

Mr. White was employed by CRST from October 21, 2010 until June 23, 2011 as a full-time over-the-road truck driver. He quit on June 23, 2011, to take another position with a company called Prime in Utah, which turned out to be an owner/operator situation.

## **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code Section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The judge elects to err on the side of caution and accept the claimant's appeal as timely even though he was not capable of providing specific enough information about the relevant dates of receipt of the fact-finding decision.

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(19) 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:

(19) The claimant left to enter self-employment.

The claimant quit to accept self employment as an owner/operator from another company. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

**DECISION:**

The decision of the representative dated July 16, 2012, reference 01, is affirmed. The appeal in this case shall be accepted as timely. Edward White is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

---

Bonny G. Hendricksmeier  
Administrative Law Judge

---

Decision Dated and Mailed

bgh/pjs