

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

DAVID P BEGNELL

Claimant,

and

CRST VAN EXPEDITED INC

Employer.

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HEARING NUMBER: 14B-UI-01182

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-A

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law by concluding that this case is not a termination for misconduct; rather, it is a voluntary quit without good cause attributable to the Employer.

Begnell suffered from a nonwork-related illness which caused an off-duty car accident. The fact that he lost consciousness, which is a symptom of his illness, prevented him from being able to pass the DOT certification required for him to be medically able to perform his job. Since his job involved driving, he could no longer maintain his employment given his inability to maintain DOT certification. The Claimant was willing to continue working, but the Employer had no other work available to him. Based on these circumstances, Mr. Begnell had no choice but to leave his employment.

The Court in White v. Employment Appeal Board, 487 N.W.2d 342, 345 (Iowa 1992) opined that an "...illness-induced quit is attributable to one's employer only under two circumstances. First, when the illness is either caused or aggravated by circumstances associated with the employer (citing *Shontz v. Iowa Employment Sec. Comm'n*, 248 N.W.2d 88, 91 (Iowa 1976); *Rooney v. Employment Appeal Board*, 448 N.W.2d 313 (Iowa 1989)...and [s]econd when the employer effects a change in the employee's work environment such that the employee would suffer aggravation of an existing condition if she were to continue working, the resulting separation has been held to be with good cause attributable to the employer..." Ellis v. Iowa Dept. of Job Service, 285 N.W.2d 153, 156-157 (Iowa 1970)

Neither of these scenarios was the case here. Mr. Begnell's illness was not caused by his employment or aggravated by any circumstance within that employment; nor is there any evidence that the Employer altered his work environment such that his medical condition became aggravated. In fact, his accident occurred off duty, and the fact that he lost consciousness then could invariably and unpredictably happen again on the job; hence, the DOT's determination that he is no longer medically certified to drive a truck. His separation must be deemed a voluntary quit that cannot be attributable to the Employer.

DECISION:

The administrative law judge's decision dated February 24, 2014 is **REVERSED**. The Employment Appeal Board concludes that the claimant voluntarily quit his employment without good cause attributable to the Employer. Accordingly, he is denied benefits until such time he has worked in and was paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(1)"g".

Monique F. Kuester

Cloyd (Robby) Robinson

AMG/fnv