

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRANDON K LATVALA
Claimant

APPEAL NO. 14A-UI-12008-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 10/05/14
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 4, 2014, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on December 10, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Kim Bateman participated in the hearing on behalf of the employer. Exhibits One through Four were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as an over-the-road truck driver from August 24, 2012, to June 26, 2014.

The claimant's truck broke down while he was delivering a load of honeydew melon in June 2014. The truck was taken to Freightliner for repairs and the engine was determined to be damaged. The employer believed the claimant had put diesel exhaust fluid in the diesel fuel tank. The claimant never put diesel exhaust fluid in the diesel fuel tank.

When the truck broke down, the claimant was concerned that the vehicle would run out of fuel which would shut down the refrigeration unit and caused the melons to overheat since it was warm out. He decided to compensate by cooling down the trailer before the truck ran out of fuel by lowering the temperature in the trailer from 45 degrees to 22 degrees. The truck did end up running out of fuel but most of the melons froze, which caused the customer to reject the load and cost the employer over \$20,000.

On June 26, 2014, the employer discharged the claimant for damaging the engine and the melons.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Iowa Code § 96.6-2; Cosper v. Iowa Department of Job Service, 321 N.W.2d 6, 11 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case. No repeated negligence of such a degree of recurrence equaling willful misconduct has been shown. The claimant made a good faith error in judgment in trying to cool down the trailer to prevent the melons from spoiling.

DECISION:

The unemployment insurance decision dated November 4, 2014, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css