

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARVIN VERNARDO**  
Claimant

**APPEAL NO: 11A-UI-09491-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST FLATBED REGIONAL INC**  
Employer

**OC: 06-05-11**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 12, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 10, 2011, and continued on August 11, 2011. The claimant participated in the hearing with current driver Marcus Watts. Sandy Matt, Human Resources Specialist, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time over-the-road truck driver for CRST Flatbed Regional from May 14, 2010 to June 8, 2011. The claimant previously drove for one of the employer's expedited routes and transferred to a dedicated route January 12, 2011, after being off an expedited route since December 20, 2010. Because he was not gone more than 30 days he was not required to go through orientation again as the same rules and regulations apply and are in the handbook, which is the same for both aspects of the trucking company. Expedited route drivers and dedicated route drivers are held to the same safety standards. A serious safety violation by either type of driver results in immediate termination.

The claimant was discharged for incurring too many moving violations, including a speeding ticket where he exceeded the speed limit by more than 15 miles per hour. On August 17, 2010, he received a citation for speeding after he was flagged going 65 miles per hour in a 55 mile per hour zone (Employer's Exhibit One). On November 5, 2010, he received a parking violation (Employer's Exhibit One). On December 1, 2010, he received a ticket for being off the truck route (Employer's Exhibit One). On April 26, 2011, he received a ticket for going 78 in a 55 mile per hour zone, which was considered a serious safety and moving violation because he was going over 15 miles per hour over the speed limit (Employer's Exhibit One, Three and Four). On May 7, 2011, he received a parking ticket (Employer's Exhibit One). On June 2, 2011, he

received a speeding ticket for traveling 65 miles per hour in a 55 mile per hour zone. The employer terminated his employment June 8, 2011, due to the April 26, 2011, speeding ticket.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The claimant received four speeding tickets, three for being 10 miles per hour over the posted speed limit and one where he exceeded 15 miles over the speed limit. Being 15 miles per hour over the speed limit is considered a serious safety violation and results in immediate termination. It took time for the April 26, 2011, speeding ticket to catch up with the claimant due to the nature of the Department of Transportation and dealing with the several different states and in the meantime he received another speeding ticket June 2, 2011. While the claimant argues he should have been afforded the opportunity to go through orientation again after switching to a dedicated route, he was not away from the company for more than 30 days and under the employer's policy he was not required to undergo orientation again. Additionally, the policies, procedures, and safety rules are the same for both expedited and route drivers and the claimant would have been discharged regardless after he was issued the speeding ticket for going 15 miles per hour over the speed limit. Consequently, the administrative law judge concludes the claimant's driving record demonstrated a willful disregard of the standards of

behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits must be denied.

**DECISION:**

The July 12, 2011, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/css