

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAMON L HATCHERSON
Claimant

APPEAL NO. 17A-UI-11876-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 10/15/17
Claimant: Appellant (2)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Damon Hatcherson (claimant) appealed a representative's November 9, 2017, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits after his separation from employment with CRST Van Expedited (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 8, 2017. The claimant participated personally. The employer participated by Stephanie Winters, Human Resource Specialist.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired by CRST Van Expedited on April 25, 2013, as a full-time over-the-road driver. The claimant signed for receipt of the CRST Van Expedited's handbook on February 10, 2014. From February 20, 2017, to May 30, 2017, the claimant worked as a full-time over-the-road driver for CRST Flatbed Regional. He was laid off for lack of work and went back to work for CRST Van Expedited. Neither CRST Van Expedited nor CRST Flatbed Regional issued the claimant any warnings during his employment. The claimant had a clean driving record.

On October 13, 2017, while working for CRST Van Expedited, the claimant exited the interstate in Arizona. He was traveling five miles per hour, had his right turn signal on, and looked for other drivers. His truck displayed a sign that said, "Truck makes wide turns". The claimant was in the midst of making a right turn into a business when a seventeen-year old male drove his vehicle into the claimant's truck on the claimant's blind side. The vehicle hit the truck's oil line and oil began to spill onto the street. The claimant turned the truck off to stop the leakage of oil. The seventeen-year old male left the scene of the accident and went home. The police cited the claimant with not having his turn signal on and improper lane change. The seventeen-year old was not cited with leaving the scene of an accident. The claimant is disputing the charges and a trial is set for December 14, 2017.

CRST Van Expedited could not think of anything the claimant could have done differently to avoid the accident. On October 14, 2017, CRST Van Expedited terminated the claimant because the accident caused \$10,000.00 in damage.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984). In this case the employer has proven that the claimant was involved in an accident with substantial damages. The employer did not prove the accident was the claimant's fault. There was no evidence presented at the hearing of anything the claimant could have done differently to prevent the accident from happening. The employer did not

provide any evidence of job-related misconduct. The employer did not meet its burden of proof to show misconduct. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's November 9, 2017, decision (reference 01) is reversed. The employer has not met its burden of proof to establish job related misconduct. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs