

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYRONE M FORDHAM SR
Claimant

APPEAL NO: 10A-UI-03088-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 01/24/10
Claimant: Appellant (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's February 19, 2010 decision (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was held on March 31, 2010. The claimant participated in the hearing. Sandy Matt, a human resource specialist, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working as an over-the-road driver for the employer on April 17, 2008. During his employment, the claimant received some citations. On July 9, 2009, the claimant drove through a residential area in Ohio. After he had driven through the area, a law enforcement officer stopped him and asked if he driven through this area. The claimant acknowledged he had. The officer then asked the claimant if he had come into contact with anything when he drove through the area. Neither the claimant nor his co-driver believed the claimant had hit or come into contact with anything. The officer, however, gave the claimant a citation for knocking down a stop sign and a cable because the claimant admitted he had driven through the area.

On October 21, 2009, the claimant received a ticket for having an expired ticket on the tractor or trailer. Although the claimant performed a pre-trip inspection, he did not notice the sticker had expired. On January 5, 2010, the claimant was driving in adverse weather conditions in Pennsylvania. Both the claimant and his co-driver were looking at road signs but did not see a sign that indicated the claimant could not enter a road. The claimant found himself driving the wrong direction on a limited access highway. In an attempt to get off the road, the claimant drove on the shoulder very slowly until he could get off the highway. Before he could get off the

highway, a law enforcement officer stopped him. The claimant received two citations for this incident. One citation was for driving the wrong direction on a limited access highway and the other was for driving in careless disregard of the safety of other drivers. (Employer Exhibit One). Even though the claimant received these traffic citations, he did not realize his job was in jeopardy.

After the employer's safety department received the January 5, 2010 citations, the employer discharged the claimant. The employer concluded the claimant exhibited a pattern of unsafe driving and discharged him for failing to drive safely.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (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 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The evidence does not establish that the claimant intentionally failed to follow road signs. Instead, as a result of adverse weather conditions, neither the claimant nor his co-driver could read the signs on the road. When the claimant realized he was driving the wrong way on a highway, he made a reasonable decision to slowly drive on the shoulder, the wrong way, so he could find an exit and get off the highway. While the employer established business reasons for discharging the claimant, the evidence does not establish that he committed work-connected misconduct. As of January 24, 2010, the claimant is qualified to receive benefits.

DECISION:

The representative's February 19, 2010 decision (reference 01) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of January 24, 2010, the claimant is qualified to receive benefits, provided he

meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css