

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BOBBY A MANSION**  
Claimant

**APPEAL NO. 14A-UI-01970-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 01/19/14**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Bobby Mansion (claimant) appealed a representative's February 10, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he was discharged from work with CRST Van Expedited (employer) for wanton carelessness in performing his work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 13, 2014. The claimant participated personally and through former co-worker, Wendy Smith. The employer participated by Sandy Matt, Human Resources Specialist. The employer offered and Exhibit One was received into evidence.

**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 on January 20, 2012, as a full-time over-the-road driver. The claimant signed for receipt of the employer's handbook. On June 17, 2013, the claimant hit a bumper bar just outside the Salt Lake City, Utah, airport. Law enforcement issued the claimant a citation. On July 9, 2013, the employer had the claimant take a defensive driving retraining class. On August 27, 2013, the claimant went down a street in Tennessee and then attempted to back out. His tire went off the payment and the rig had to be towed. On November 15, 2013, the employer had the claimant take another defensive driving retraining class. The claimant signed a document on November 15, 2013, indicating that further accidents would result in termination from employment.

On January 9, 2014, the claimant was supposed to park his trailer in a drop yard. A security guard came up to the claimant with a head light on his cap and told the claimant to park in another spot. The light took away the claimant's night vision momentarily. The claimant did not wait for his night vision to return. He started to move the rig and looked in his mirror before turning the wheel to the right. The claimant could not see anything because of the loss of his

night vision. Even though he could not see, the claimant continued to turn the wheel and hit a trailer. The employer terminated the claimant.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was discharged for 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 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). Repeated unintentionally careless behavior of claimant towards subordinates and others, after repeated warnings, is misconduct. Greene v. Employment Appeal Board, 426 N.W.2d 659 (Iowa App. 1988). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions with regard to safety in driving. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's February 10, 2014, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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