

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GEORGE E BURTON**  
Claimant

**APPEAL NO: 13A-UI-11011-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 08/25/13**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's September 18, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. The employer's witness, Sandy Matt, informed the Appeals Section prior to the scheduled hearing that she was unable to participate at the hearing. The employer did not request a continuance. Instead, the employer sent in documents for the hearing. The claimant received a copy of the documents and they were collectively identified and admitted as Employer's Exhibit One. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in September 2012. He worked as a full-time over-the-road driver. The claimant acknowledged receiving a copy of the employer's violation policy on September 4, 2012. (Employer Exhibit One) The policy states in part employees will be terminated if they operate a truck in a dangerous or careless manner or are involved in a serious accident. (Employer Exhibit One, page 1.)

Prior to August 17, 2013, the claimant's job was not in jeopardy. On August 17, the claimant went under a bridge in New Jersey and hit the bridge with the top of his truck. The claimant received a citation for careless driving. (Employer Exhibit One pages 3 and 4.)

The claimant learned from other New Jersey drivers and the police officer, who gave him a ticket, that there were many accidents at this location. When a trucker starts to go through the bridge, there is enough clearance. But the bridge's clearance gets lower as a truck goes through. The top of the claimant's truck was too high and could not get through the bridge. The claimant did not damage the bridge, but his truck had to be towed. The claimant's trailer was empty when the accident occurred.

The employer's safety department determined the August 17 incident was a preventable accident. The employer discharged the claimant because the August 17 accident was preventable and because he received a citation for careless driving.

### **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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant for business reasons. Even if the claimant was careless or negligent on August 17, 2013, this accident was an isolated incident. The evidence does not establish that the claimant intentionally drove so he would get stuck and to have his truck towed. The claimant had an accident on August 17, but he did not commit work-connected misconduct.

### **DECISION:**

The representative's September 18, 2013 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant's August 17 accident does not rise to the level of work-connected misconduct. As of August 25, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css