

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN J CARTER
Claimant

APPEAL NO: 13A-UI-07445-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST FLATBED REGIONAL INC
Employer

OC: 06/02/13
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 20, 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. Sandy Matt, a human resource specialist, appeared on the employer's behalf. During the hearing, Employer Exhibits One and Two were offered and admitted as evidence. Based on the evidence, the arguments of the parties, 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:

After the claimant quit working as a team driver for CRST Van Expedited, Inc., the employer rehired the claimant, three weeks later, to work on a dedicated route as a solo driver. The claimant began working as a solo driver for the employer in mid-April 2012.

When the claimant started working as a team driver in July 2011, he received information that if received a speeding ticket for going over 10 miles the posted speed, he would be terminated in accordance with the employer's safety policy. (Employer Exhibit One.)

On May 14, 2013, as the claimant was driving down a steep incline, a law enforcement official clocked him going 70 miles per hour in a 55 mile per hour zone. (Employer Exhibit Two.) This was the first speeding ticket the claimant received in over 30 years. Since the claimant was clocked at going over 10 miles the speed limit, the employer discharged him on May 21, 2013.

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 established business reasons for discharging the claimant. In accordance with the employer's policies, the employer terminated the claimant for receiving his first speeding ticket for traveling ten miles over the speed limit. Even though the employer followed its policy, the claimant's May 14 speeding ticket does not establish that he committed work-connected misconduct. As of June 2, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's June 20, 2013 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of June 2, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css