

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TARRENCE D COX
Claimant

APPEAL NO. 09A-UI-03589-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 02/01/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

Tarrence Cox filed an appeal from a representative's decision dated February 27, 2009, reference 01, which denied benefits based upon his separation from CRST Van Expedited Inc. After due notice, a telephone conference hearing was scheduled for and held on April 1, 2009. Mr. Cox participated personally. The employer participated by Ms. Sandy Matt, Human Resource Specialist and Scott Nelson, Fleet Manager.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses and having and considered all of the evidence in the record, finds: The claimant was employed by the captioned trucking company from October 8, 2007 until January 26, 2009 when he was discharged for failing to accept assigned loads. Mr. Cox worked as a full-time over-the-road tractor trailer driver and was paid the mile.

Under company policy employees do not have the option of refusing dispatched loads. The claimant refused a dispatched load on January 24, 2009 and was suspended temporarily for his refusal. When the claimant again refused a different load two days later on January 26, 2009, he was discharged from employment. Employees are aware of the forced dispatch rule as it is contained in the company handbook and covered in orientation.

It appears that Mr. Cox was dissatisfied as he had been temporarily without a load and felt that the dispatches given to him were not sufficient.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

The evidence establishes that the claimant was aware of the company rule that required drivers to accept dispatched loads given to them by the company. Although aware of the rule Mr. Cox refused a dispatch on January 24, 2009 and again refused a second dispatch on January 26, 2009. Based upon the company policy and the claimant's repeated refusals, a decision was made to terminate Mr. Cox from his employment. The claimant provided no reasonable explanation to the employer for his refusals.

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.

For the reasons stated herein the administrative law judge concludes that the claimant was discharged under disqualifying conditions. Benefits are withheld.

DECISION:

The representative's decision dated February 27, 2009, reference 01, is affirmed. Tarrence Cox is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, providing that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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