

BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319

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MICHAEL K MILLER

Claimant,

and

CRST VAN EXPEDITED, INC

Employer.

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HEARING NUMBER: 09B-UI-12984

EMPLOYMENT APPEAL BOARD  
DECISION

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION: 96.5-2-A**

**DECISION**

**UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE**

The employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

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John A. Peno

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Elizabeth L. Seiser

**DISSENTING OPINION OF MONIQUE F. KUESTER:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge based on the employer's credibility. As the employer representative, it is possible for me to believe that the claimant failed to return to the job and subsequently failed to contact the employer for reassignment with a co-driver.

It is conceivable that the case could be analyzed as a quit considering the claimant's failure to return to work or abandonment. The claimant was granted leave in June and wasn't removed from employment until August, which corroborates the employer's testimony that the employer tried to maintain the claimant's position since the employer had no concerns about performance issues. For these reasons, I would deny benefits.

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Monique F. Kuester

AMG/fnv