

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KEITH J WILDE**  
Claimant

**APPEAL NO. 12A-UI-06581-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 05/06/12**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Keith J. Wilde filed a timely appeal from a representative's decision dated May 31, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on July 10, 2012. Claimant participated. Participating as a representative for the claimant was his wife, Susan Wilde. The employer participated by Ms. Sandy Matt, Human Resource Specialist. Employer's Exhibits One, Two and Three were received into evidence.

**ISSUE:**

The issue in this matter is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: Keith Wilde was employed by CRST Van Expedited Inc. as an over-the-road tractor trailer driver from July 21, 2011 until April 29, 2012 when he was discharged for violation of company policy. Mr. Wilde was paid by the mile and was employed full time.

Mr. Wilde was discharged after receiving a moving vehicle violation citation in the state of New Mexico for traveling 54 miles per hour in a 45 mile per hour construction zone where workers were present. Mr. Wilde dutifully reported the citation the same day and was subsequently informed of his termination from employment by the company.

At the time of hire Mr. Wilde was given a copy of the company's violation policy and acknowledged its receipt. (See Exhibit Three). The violation policy specifically informed drivers of the possibility of termination or defensive driving course for any observation of a commercial vehicle in a dangerous or careless manner. The company's policy included in a classification speeding in construction zones. While the claimant had not received previous warnings or counselings and had a clean driving record he nonetheless was discharged from employment.

## REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the employer has established its burden of proof in establishing disqualifying conduct on the part of this claimant. It has.

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 this matter. See Iowa Code section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment insurance benefits.

In the case at hand the evidence establishes that Mr. Wilde knew or should have known of the company policy which provided for termination from employment for what the employer considered to be operation of the company's commercial vehicle in a dangerous or careless manner. Included in the specific classifications listed by the employer at the time of hire was "speeding in construction zones."

The evidence in the record establishes that Mr. Wilde was cited for speeding in a construction zone in the state of New Mexico and that the citation included the notation that construction workers were present. Based upon what the employer reasonably considered to be the severity of the claimant's sole infraction he was discharged from employment.

As the evidence in the record establishes that the claimant was properly notified of the employer's rules and expectations and that the claimant violated them the administrative law

judge concludes that the employer has sustained its burden of proof in showing the claimant's discharge took place under disqualifying conditions. Unemployment insurance benefits are withheld.

**DECISION:**

The representative's decision dated May 31, 2012, reference 01, is affirmed. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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