

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MILTON A PATINO SERRANO
Claimant

APPEAL NO: 12A-UI-06972-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 05/13/12
Claimant: Respondent (1)

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's June 6, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated in the hearing. Sandy Matt, a human resource specialist, appeared on the employer's behalf. Anna Pottebaum interpreted the hearing. 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:

The claimant started working as a full time over-the-road driver for the employer in September 2011. When the employer hired him, the claimant received information about the employer's policies. One policy informed him that the employer considers driving ten miles over a posted speed limit constitutes unsafe driving. The employer's policy states that if a driver does not drive safely he can either be discharged or be required to attend a safe driving course. (Employer Exhibit Two.)

On April 24, 2011, the claimant received a speeding ticket in Ohio for driving 66 mph in a 55 mph zone. When a driver in front of the claimant forced him to change lanes, the claimant did not notice a sign indicating the speed limit changed from 65 mph to 55 mph. (Employer Exhibit One.) The claimant had his cruise control set on 65 mph. The claimant reported this speeding ticket to the employer.

On May 10, the employer discharged the claimant for violating the employer's safe driving policy by going more than ten miles over the posted speed limit. This was the first traffic citation the claimant received while working for the employer.

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. The claimant violated the employer's policy when he claimant received a speeding ticket for going more than ten miles over the posted speed limit. The claimant did not intentionally violate this policy. The claimant did not know the speed limit changed from 65 to 55 miles an hour. He had not seen the sign when he changed lanes. Given the fact the claimant's job was not in jeopardy before he received the speeding ticket and this was the first traffic citation he received while working for the employer, the evidence does not establish that the claimant committed work-connected misconduct. As of May 13, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's June 6, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of May 13, 2012, 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