

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JEFFREY B HUNT**  
Claimant

**APPEAL 15A-UI-13189-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 11/01/15  
Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 20, 2015, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on December 18, 2015. Claimant participated. Employer participated through human resource specialist Kim Bateman.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a safety trainer from June 2014, and was separated from employment on October 26, 2015, when he was terminated.

As a safety trainer, claimant is required to possess and maintain a Commercial Driver License (CDL). Claimant was aware of this job requirement.

On October 21, 2015, claimant was pulled over and charged with operating a vehicle while intoxicated. Claimant lost his CDL as a result. Claimant notified his supervisor of what occurred and stated he assumed he would be terminated. Claimant returned to work on October 26, 2015, and was presented with termination paperwork. Employer allowed claimant to resign in lieu of termination.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

As a preliminary matter, the administrative law judge finds claimant was terminated and did not resign. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v.*

*Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Here, claimant had no intention to resign. Because he was given no choice to continue his employment, his separation from employment was due to a termination.

When an employee is terminated, the employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer is not obligated to accommodate an employee during a license suspension or revocation period but does have a legal obligation to abide by state and federal transportation safety statutes and regulations and not allow unlicensed individuals to drive. While the license revocation issue was not related to his work, claimant's failure to maintain a valid, unrestricted CDL as a known condition of the employment was misconduct sufficient to warrant a denial of benefits.

**DECISION:**

The November 20, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Decision Dated and Mailed

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