

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ZEBULON M HARRIS
2224 S 234TH ST #B-308
DES MOINES WA 98198-2741

CRST INC
c/o TALX EMPLOYER SERVICES
PO BOX 1160
COLUMBUS OH 43216-1160

Appeal Number: 06A-UI-04112-CT
OC: 03/05/06 R: 12
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

CRST, Inc. filed an appeal from a representative's decision dated April 6, 2006, reference 01, which held that no disqualification would be imposed regarding Zebulon Harris' separation from employment. After due notice was issued, a hearing was held by telephone on May 1, 2006. The employer participated by Sandy Matt, Human Resources Specialist. Mr. Harris did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Harris was employed by CRST, Inc. from

March 6, 2003 until February 15, 2006, as an over-the-road truck driver. He was discharged because he did not have a valid CDL. Mr. Harris was notified during an inspection in the State of Washington on December 27, 2005, that his driver's license was under suspension because of an outstanding ticket in California. He did not at that time notify the employer of any problems with his CDL.

The employer learned on or about February 15, 2006, that Mr. Harris did not have a valid CDL. Therefore, he was discharged from the employment. His failure to have a valid CDL was the sole reason for the discharge.

Mr. Harris has received a total of \$1,296.00 in job insurance benefits since filing his claim effective March 5, 2006.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Harris was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Harris was discharged because he did not have a CDL, which was necessary for him to work as a truck driver. Where an individual's own conduct renders him unemployable by his employer, the resulting discharge is for disqualifying misconduct. See Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980).

Mr. Harris knew in December of 2005 that there was a problem with his CDL because of an unpaid ticket in California. By February 15, 2006, he still had not resolved the issue. It was his failure to resolve the unpaid ticket that caused Mr. Harris to be unable to continue driving for CRST, Inc. Because obtaining a valid CDL was his responsibility, it is concluded that he caused his own discharge and that the discharge was for misconduct within the meaning of the law. Accordingly, benefits are denied.

Mr. Harris has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated April 6, 2006, reference 01, is hereby reversed. Mr. Harris was discharged for misconduct in connection with his employment with CRST, Inc. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Harris has been overpaid \$1,296.00 in job insurance benefits.

cfc/kkf