

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

DEREK T TUCKER
3201 – 59TH PL
LOS ANGELES CA 90043

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

Appeal Number: 05A-UI-11181-DWT
OC: 10/02/05 R: 12
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

CRST, Inc. (employer) appealed a representative's October 21, 2005 decision (reference 01) that concluded Derek T. Tucker (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 15, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Sandy Matt, the human resource specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on December 9, 2004. The claimant worked as an over-the-road driver. The claimant's continued employment required the claimant to possess a valid commercial driver's license (CDL).

The State of California randomly picks drivers to take the commercial driver's license tests. The claimant was randomly chosen to retake this test. After the claimant failed the test two times, the state of California made the claimant surrender his CDL. The claimant informed the employer that as of June 3, 2005, he no longer had a commercial driver's license. The employer could not allow the claimant to drive after June 3, 2005.

The claimant established a claim for unemployment insurance benefits during the week of October 2, 2005. As of November 21, 2005, the claimant has not filed any weekly claims.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The only reason the claimant's employment ended was because the State of California randomly chose the claimant to take a commercial driver's license test again and the claimant failed to pass the test two times. As a result of failing the test, California revoked the claimant's commercial driving license. Under the facts of this case, the claimant did not voluntarily quit his employment, and he was not discharged for work-connected misconduct. The employer could not retain the claimant as a driver because he no longer possessed a commercial driver's license. The claimant, however, tried to retain his license by taking the test two times. The claimant's employment separation occurred for nondisqualifying reasons. Therefore, as of October 2, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's October 21, 2005 decision (reference 01) is affirmed. The claimant did not voluntarily quit his employment and he did not commit work-connected misconduct. Therefore, as of October 2, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements.

dlw/tjc