

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEGGER T THOMPSON
Claimant

APPEAL NO. 11A-UI-07830-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 05/08/11
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's June 8, 2011 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for non-disqualifying reasons. The claimant participated in the hearing. Mike Weustenberg, a fleet manager, and Sandy Matt, a human resource specialist, appeared on the employer's behalf. 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 claimant voluntarily quit his employment for reasons that qualify him to receive benefits or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer as an over-the-road driver April 2010. The claimant worked as a team driver with two other drivers. The three drivers rotated time off so two drivers always worked. The claimant delivered a load on December 25, 2010. He was then scheduled to be home for ten days. While the claimant was on scheduled time off, his co-drivers found another driver on January 6, 2011, and replaced the claimant.

The claimant and Weustenberg, his fleet manager, talked on January 19. The claimant indicated he was available to return to work on January 24. After the claimant's former team drivers contacted him and told him that he no longer drove with them, the claimant talked to Weustenberg again. During this conversation, the claimant understood the employer would provide him with a list of potential co-drivers he could contact to drive with. The employer would not assign the claimant a load without a co-driver. The claimant waited for a list of potential drivers but did not receive any list.

Although Weustenberg called and left messages for the claimant on January 25 and February 11, the claimant did not know he had called. When the claimant had not contacted or

talked to Weustenberg by February 14, he sent in paperwork indicating the claimant no longer worked for the employer.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit his employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. As of January 24, the claimant was available to work but could not drive, because he did not have a co-driver. The claimant could not drive without a co-driver. As of January 24, the claimant did not quit and he was not discharged for work-connected misconduct. 871 IAC 24.32(1)(a). Instead, he was laid off from work because he did not have a co-driver to drive with. The reasons for the claimant's employment separation do not disqualify him from receiving benefits. As of May 8, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's June 8, 2011 determination (reference 01) is affirmed. The claimant was effectively laid off from work as of January 24, 2011, because he did not have a co-driver. He did not voluntarily quit and the employer did not discharge him for work-connected misconduct. As of May 8, 2011, 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/kjw