

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL T NORWOOD**  
Claimant

**APPEAL NO. 10A-UI-07612-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**Original Claim: 04/25/10  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated May 19, 2010, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on July 13, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Sandy Matt participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full-time for the employer as an over-the-road truck driver from April 25, 2005, to April 17, 2010.

On April 17, the claimant was driving on Interstate 95 near Jupiter, Florida. He was traveling about 60 miles per hour, which was under the speed limit. He saw some tire debris in the lane he was in. He checked his mirrors and could not move to the lane to his left due to traffic. He decided to move over to the emergency lane to the right to avoid the debris. As he eased over into the emergency lane, the side of the road gave way and he lost control of the truck and it went into the ditch. The damages to the truck, trailer, and load were about \$90,000. Law enforcement ticketed the claimant for failure to use proper care, which made it a Department of Transportation preventable accident. The claimant had not had any previous preventable accidents.

The employer discharged the claimant as a result of the accident and damage to the employer's property.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful misconduct has been proven in this case. The evidence establishes a single instance of ordinary negligence in failing to keep control of his vehicle. In *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731 (Iowa App. 1986), the Iowa Supreme Court ruled that a single act of negligence is not disqualifying misconduct. Consequently, the claimant is qualified to receive benefits, if he is otherwise eligible.

**DECISION:**

The unemployment insurance decision dated May 19, 2010, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw