

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT L WASHINGTON
Claimant

APPEAL NO. 11A-UI-06046-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

**OC: 03/06/11
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated April 28, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 6, 2011. Claimant participated. Employer participated by Sandy Matt, human resources specialist, and Collin Schneider, fleet manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant was employed with the employer from October 27, 2007 through March 4, 2011. The claimant was a full-time over the road driver. He needed time off for medical reasons. He was asked to provide documentation of his medical problem. He provided this information by fax to the employer; but, due to a mistake, the employer considered the claimant to have quit. The employer mixed up the claimant and his co-driver. The claimant did not quit his employment. He was terminated.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 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.

The employer led the claimant to believe that his time off work would be excused, provided he submitted medical documentation, which he did provide. The claimant did not desire to quit his employment. His employment was mistakenly terminated by the employer. No disqualification is imposed.

The issue of whether the claimant was able and available for work from March 6, 2011 through April 8, 2011 is remanded for determination.

DECISION:

The April 28, 2011, reference 01, decision is affirmed. Benefits are allowed, provided the claimant is otherwise eligible. The issue of whether claimant was able and available for work from March 6, 2011 through April 8, 2011 is remanded for determination.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/kjw