

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREGORY L HUGHES

Claimant

APPEAL NO. 14A-UI-03831-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC

Employer

OC: 03/09/14

Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 30, 2014, reference 02, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on April 30, 2014. 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. Exhibits One to Three were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a truck driver for the employer from January 31, 2013, to January 29, 2014. He was informed and understood that under the employer's work rules, employee were prohibited from transporting alcohol on the truck (including empty containers) or consuming alcohol while on duty.

The claimant was discharged because a student driver that the claimant was training had sent picture of a beer can propped up on the Qualcomm unit in the truck cab, and the day after the claimant returned to the employer's terminal in Carlisle, Pennsylvania, a safety manager found a beer can in the trash. The student driver had access to the truck overnight; the claimant had not stayed in the truck overnight.

The claimant did not bring any alcohol in the truck and was not aware of how the photographed beer can or beer can in the trash can got there.

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).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Iowa Code § 96.6-2; Cosper v. Iowa Department of Job Service, 321 N.W.2d 6, 11 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant testified very credibly that he had not brought beer into the truck and had no knowledge of how the photographed beer can or beer can in the trash can got there. The employer presented no evidence from anyone with personal knowledge. The claimant's evidence outweighs that provided by the employer.

No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated April 30, 2014, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css