

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BREAVON D MCDUFFIE

Claimant

APPEAL NO: 09A-UI-10564-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC

Employer

OC: 06/07/09

Claimant: Respondent (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer appealed a department decision dated July 15, 2009, reference 01, that held it failed to establish misconduct in the discharge of the claimant on May 6, 2009, and benefits are allowed. A telephone hearing was scheduled for August 10, 2009. The claimant and the employer did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the claimant, and having considered the evidence in the record, finds: The claimant worked for the employer as a co-driver from November 28, 2007 to May 6, 2008. The claimant had a problem with his co-driver and his supervisor instructed him to return to the office. Due to an air conditioning problem, the claimant's vehicle was taken out of service for repair, and he was instructed to check in for further employment. The claimant was not offered further work by the employer.

The claimant and the employer failed to respond to the hearing notice.

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.

The administrative law judge concludes that the claimant was discharged from employment for no act of misconduct on May 6, 2009. The employer failed to participate in this hearing and offer evidence of job disqualifying misconduct.

DECISION:

The department decision dated July 15, 2009, reference 01, is affirmed. The claimant was not discharged for misconduct on May 6, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs