

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ADAM T CHAFFEE**  
Claimant

**APPEAL NO. 14A-UI-00115-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**OC: 11/10/13  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Adam Chaffee, filed an appeal from a decision dated December 19, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on January 28, 2014. The claimant participated on his own behalf. The employer, CRST, participated by Director of Capacity Development Wendy Bartz and Manager of Capacity Development Marcus Schneider.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Adam Chaffee was employed by CRST from January 7, 2013 until November 13, 2013 as a full-time driver recruiter. He received a verbal warning on January 28, 2013, for attendance and tardiness, and a written warning February 27, 2013, for the same problem. A final written warning was issued October 15, 2013, which advised him his job was in jeopardy.

The claimant was frequently tardy because he did not have a driver's license and had to depend on others to get him to work.

On November 13, 2013, the employer became aware the claimant was spending an excessive amount of time on the phone rather than doing his regular job duties. A call log was pulled for the period starting Monday, November 4 through Tuesday, November 13, 2013. It showed during those seven work days 45 calls had been made between the claimant and a co-worker, Nate. Mr. Chaffee initiated the greatest number of them and a total of 361 minutes was spent on the phone between these two individuals.

A comparison with other driver recruiters during that time showed an average of ten minutes per day spent talking with co-workers. Mr. Chaffee maintained he was only asking for guidance because certain policies had changed, but could not explain why the other recruiters did not have the same problem. The employer considered if he had that much trouble with the new policies he should have asked for additional training from a manager rather than consuming the time of other employees.

Director of Capacity Development Wendy Bartz and Manager of Capacity Development Marcus Schneider, discharged the claimant on November 13, 2013.

### **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 claimant had been advised his job was in jeopardy as a result of his attendance and work performance. Instead of improving, he spent in excess of six hours of work time over seven days talking on the phone with a co-worker. Although he denied spending any of that time in personal conversation, the administrative law judge does not find this to be credible. Other recruiters were able to have their questions answered in a fraction of the amount of time the claimant spent.

The record establishes the claimant was discharged for using the company phone for personal conversations with a co-worker during work hours, being paid for time he did not actually perform his work duties. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

**DECISION:**

The unemployment insurance decision dated December 19, 2013, reference 01, is affirmed. Adam Chaffee is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs