

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NORRIS N BAKER

Claimant

APPEAL NO: 12A-UI-06903-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC

Employer

OC: 05/13/11

Claimant: Appellant (4)

Iowa Code § 96.4(3) - Able to and Available for Work
871 IAC 24.23(10) - Leave of Absence

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 6, 2012 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Sandy Matt, a human resource specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is eligible to receive benefits as of June 18, 2012.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for reasons constituting work-connected misconduct?

Is the claimant on a leave of absence?

FINDINGS OF FACT:

On May 8, 2011, the claimant began working for the employer as a full-time over-the-road driver. The claimant's job requires him to be medically certified to drive. The claimant's medical certification expired on May 12, 2012. The employer only accepts medical certification from physicians the employer has chosen. On May 9, 2012, the claimant's dispatcher directed him to drive to Oklahoma City so he could have a physical the next day.

At his physical, the claimant's blood sugar was too high and he did not pass the physical. The employer had the claimant stay in a motel until May 14 in Oklahoma City. On May 14, the claimant's blood sugar was again tested. Even though the physician hoped the claimant's blood sugar would go down so he could certify that he was medically able to drive, the claimant's blood sugar level was still too high. The employer's physician told him to go home and make an appointment with his personal physician. The claimant learned he would have to be off work for 30 days and then could have his blood sugar level tested again. After 30 days, he could have his blood sugar level again tested. When he had three tests that were in the acceptable range,

he was to fax this information to the employer so arrangements could be made for the employer's physician to again examine him to see if he was medically certified to drive.

The claimant had blood tests completed on June 8, 15, and 18. His physician signed a form that his blood sugar level was acceptable and the claimant could return to work. On June 18, 2012, the claimant's doctor's office faxed this form to the employer's safety/medical department. The employer's safety department did not receive the faxed report.

The claimant's dispatcher called him to find out when he could return to work. Just before the July 5 hearing, the claimant's dispatcher told the claimant that the employer did not have the information that had been previously faxed to the employer. The dispatcher asked the claimant to fax this information directly to him so he could then walk the needed paperwork to the safety department. The dispatcher wants the claimant to return to work and will make the necessary appointment for the claimant to become medically certified by the employer's physician after the employer received the necessary documentation.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The facts establish the claimant did not quit and the employer did not discharge him. As of May 14, the claimant was on a leave of absence to get his blood sugar level under control. For unemployment insurance purposes, a leave of absence is considered a period of voluntary unemployment. A claimant is not eligible to receive benefits when he is on a leave of absence. 871 IAC 24.23(10).

As of the date of the hearing, July 5, the employer still considered the claimant an employee who needed to pass a physical so he could again be medically certified to drive. The claimant did not work as a driver after May 10 because his high blood sugar level was too high.

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). On May 10 and 14, the claimant did not pass a physical to become medically certified to drive. The claimant knew as of May 14 he had to see his personal physician, wait 30 days before another blood test could be taken and then have three blood test results that were not high. After the claimant satisfied these requirements on June 18, he understood the employer needed documentation about these three tests faxed to the employer's safety department. Even though the claimant's doctor faxed the requested paperwork to the employer, safety department personnel did not receive the faxed information.

Shortly before the hearing and at the July 5 hearing, the claimant indicated he would again fax the medical documentation to his dispatcher so the employer could make arrangements to make an appointment for the claimant with the employer's doctors so he could be medically certified to drive again. As of June 18, 2012, the claimant was released by his personal physician to work. Since the employer will not accept any medical certification that is not completed by its physicians, the claimant is essentially laid off until the employer makes an appointment for the claimant with one of the employer's doctors. This means that as of June 18, the claimant is able to and available for work and eligible to receive benefits.

DECISION:

A representative's June 6, 2012 determination (reference 01) is modified in the claimant's favor. The claimant did not voluntarily quit his employment and the employer did not discharge him. Instead, the employer considered him on a medical leave of absence until his doctor released him to return to work after his blood sugar level was under control. The claimant was on a leave of absence May 14 through June 17, 2012. As of June 18, the claimant's personal physician released him to return to work and faxed documents verifying the blood test results to the employer's safety department. As of June 18, 2012, the claimant is eligible and qualified to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw