

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GLORI J THOMAS**  
Claimant

**APPEAL NO. 09A-UI-10657-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST VAN EXPEDITED INC**  
Employer

**Original Claim: 06/21/09  
Claimant: Respondent (1)**

Iowa Code Section 96.5-1-d – Separation for Health Reasons

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated July 15, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 11, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Lisa Oetken participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full-time as a driver for the employer from August 17, 2007, to July 3, 2008. On July 7, 2008, the claimant was seriously injured in a car accident that occurred while she was off work in her personal vehicle.

Her doctor excused the claimant from working. She notified her employer about her medical condition and provided medical statements that allowed her to receive short-term disability through the employer's disability insurance program. She exhausted her short-term disability benefits as of January 5, 2009, but still was unable to work.

The claimant was scheduled for neck surgery on February 15, 2009. She notified her dispatcher about her surgery. Her dispatcher instructed the claimant to contact her when she was released to return to work.

In April 2009, the employer prepared an employment termination form stating the claimant's employment had ended effective January 5 2009, when she did not return to work after her short-term disability ended and she had no other leave available.

The claimant was verbally released to return to work by her doctor without restriction around June 15, 2009. She contacted the dispatcher and was informed that she had been terminated and was eligible for rehire. The claimant's doctor completed a Department of Transportation

Medical Examiner's Certificate and certified the claimant was able to work as a truck driver without restrictions on June 29, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law provides that an individual is qualified to receive benefits if she: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that she needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but her regular work or comparable suitable work was not available. Iowa Code § 96.5-1-d.

The claimant has satisfied all the requirements of Iowa Code § 96.5-1-d and is qualified for unemployment insurance benefits on that basis. I will also indicate that if the separation was considered a discharge, no work-connected misconduct has been shown, as the discharge was due to the claimant's exhausting all forms of leave and being unable to work. A discharge due to inability to perform one's job is not misconduct. Iowa Code § 96.5-2-a.

**DECISION:**

The unemployment insurance decision dated July 15, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw