

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSE M PUEBLA**  
Claimant

**APPEAL NO. 06A-UI-11031-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRST INC**  
Employer

**OC: 10/15/06 R: 12**  
**Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

CRST, Inc. filed an appeal from a representative's decision dated November 7, 2006, reference 01, which held that no disqualification would be imposed regarding Jose Puebla's separation from employment. After due notice was issued, a hearing was held by telephone on December 4, 2006. Mr. Puebla participated personally. The employer participated by Sandy Matt, Human Resources Specialist.

**ISSUE:**

At issue in this matter is whether Mr. Puebla was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Puebla was employed by CRST, Inc. from June 9, 2005 until January 13, 2006 as an over-the-road driver. There was a stipulation on his medical card requiring him to wear corrective lenses when driving.

On or about January 13, 2006, Mr. Puebla was at a weigh station when the Department of Transportation (DOT) noted that he was not wearing the corrective lenses required. The DOT took him out of service, meaning he could not drive until he had his glasses. He had driven to the weigh station but had his partner drive when they left. They drove to a Wal-Mart store with the intent of buying glasses but the store was closed. After his partner ran out of hours he could drive, Mr. Puebla drove even though he did not have the required glasses. He had lost his glasses approximately one to two weeks before being stopped by DOT on January 13.

In making the decision to discharge, the employer also considered the fact that Mr. Puebla had had log book violations and had been involved in at least one accident. He was verbally warned about log book violations on August 24 and December 27, 2005. He struck another vehicle on November 25, 2005.

Mr. Puebla filed a claim for job insurance benefits effective October 15, 2006. He has received a total of \$2,156.00 in benefits since filing his claim.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Puebla was discharged from employment. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The discharge in this case was prompted by the fact that Mr. Puebla disobeyed a directive from DOT. He drove the employer's vehicle after he was taken out of service by DOT. Moreover, he had not been wearing the required corrective lenses for at least one and possibly two weeks before he was taken out of service. The employer had the right to expect that Mr. Puebla would abide by rules and directives from DOT. His conduct in driving after being taken out of service constituted a substantial disregard of the standards the employer had the right to expect. The fact that his partner was required to drive from the weigh station establishes that Mr. Puebla knew he was not to be driving until he got glasses.

For the reasons stated herein, the administrative law judge concludes that the employer has satisfied its burden of proving disqualifying misconduct. Accordingly, benefits are denied. Mr. Puebla has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

**DECISION:**

The representative's decision dated November 7, 2006, reference 01, is hereby reversed. Mr. Puebla was discharged by CRST, Inc. for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Puebla has been overpaid \$2,156.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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