

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICAHRD M DAVIS**  
Claimant

**APPEAL NO. 09A-UI-01378-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CONTRACT TRANSPORT INC**  
Employer

**OC: 12/21/08 R: 02  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Contract Transport, Inc. filed an appeal from a representative's decision dated January 26, 2009, reference 01, which held that no disqualification would be imposed regarding Richard Davis' separation from employment. After due notice was issued, a hearing was held by telephone on February 17, 2009. Mr. Davis participated personally. The employer participated by Jeane Nible, Corporate Treasurer.

**ISSUE:**

At issue in this matter is whether Mr. Davis 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. Davis was employed by Contract Transport, Inc. from April 25 until September 23, 2008. He worked part time as a driver delivering mail between local post offices and the main post office in Des Moines. He was discharged from the employment.

On May 13, Mr. Davis was late picking up mail at the post office in Lacona, Iowa. He was late because he had to take a detour due to a fire on his way from his previous stop. On September 16, he neglected to pick up a cart of mail at the Johnston post office. He thought it was an empty cart and did not think he was to return empty carts to the main post office. The decision to discharge was prompted by the fact that Mr. Davis was five to ten minutes late returning to the main post office on September 22. He had not received any written warnings about his job performance. He had received a verbal warning after he was late arriving in Lacona in May. Mr. Davis was at all times working to the best of his abilities.

**REASONING AND CONCLUSIONS OF LAW:**

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). Mr. Davis was discharged as a result of three incidents. Although he was late to the Lacona post office in May, the delay was due to circumstances beyond his control. He had to detour his route because of a fire. Although he did forget a cart of mail on September 16, it was an isolated oversight and not an intentional act.

Mr. Davis was between five and ten minutes late returning to the post office on September 22. He did not have a history of being late due to circumstances within his control. His tardiness on this occasion was not so substantial a deviation from the employer's standards as to constitute an act of misconduct. At most, the employer's evidence established that Mr. Davis was an unsatisfactory employee. It did not establish that he intentionally and deliberately acted in a manner he knew to be contrary to the employer's interests or standards. Inasmuch as substantial misconduct has not been established, benefits are allowed.

**DECISION:**

The representative's decision dated January 26, 2009, reference 01, is hereby affirmed. Mr. Davis was discharged by Contract Transport, Inc., but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

---

Carolyn F. Coleman  
Administrative Law Judge

---

Decision Dated and Mailed

cfc/kjw