

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEROY HOLLOWAY
Claimant

APPEAL NO. 10A-UI-06190-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

**Original Claim: 03/14/10
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's April 12, 2010 decision (reference 01) that disqualified him from receiving benefits and the employer's account was exempt from charge because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. A telephone hearing was held on May 19, 2010. The claimant responded to the hearing notice, but was not available for the hearing. Lea Peters, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on June 1, 2002, as a full-time over-the-road truck driver. The last day the claimant worked for the employer was November 20, 2009. He was then off work because of medical issues.

On December 3, 2009, the claimant requested a medical leave of absence. The employer sent him paperwork for medical leave under the Family Medical Leave Act. The employer requested the claimant or his physician return the FMLA paperwork completed by December 18, 2009. When the claimant did not return any paperwork by December 18, the employer extended the deadline to January 5, 2010.

When the claimant had not submitted the necessary FMLA paperwork by January 5, the employer's human resource manager called the claimant. The employer told the claimant he had to have the FMLA paperwork completed and submitted to the employer's office by the next day, January 8. On January 8, 2010, the claimant contacted the employer to report his physician was unable to complete the paperwork and he was unable to meet the employer's January 8, 2010 deadline.

When the claimant was unable to return to work and had not submitted the requested FMLA paperwork, the employer ended the claimant's employment on January 8, 2010. If the claimant had been granted a medical leave under FMLA, the leave would have ended February 24, 2010.

The claimant established a claim for benefits during the week of March 14, 2010. As of May 19, 2010, he has not filed any weekly claims.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The evidence does not establish that the claimant voluntarily quit his employment. Instead, the claimant requested a medical leave of absence. When the claimant did not send the employer the completed FMLA paperwork by January 8, 2010, the employer ended the claimant's employment. For unemployment insurance purposes, the employer discharged the claimant.

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good-faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer ended the claimant's employment when he was unable to work as a truck driver because of medical issues and had not returned completed FMLA paperwork by January 8, 2010. The claimant did not commit work-connected misconduct. Since the claimant has not filed any weekly claims, the issue of whether the claimant is able to and available for work is not an issue for this decision. If the claimant reopens his claim, he must at that time provide information to establish he is able to and available for work or that his medical issues have been resolved or he is looking for work that he has the necessary job skills to do.

DECISION:

The representative's April 12, 2010 decision (reference 01) is reversed. The claimant did not voluntarily quit his employment. Instead, he requested a medical leave of absence. When he was unable to return to work or provide completed FMLA paperwork to the employer by January 8, 2010, the employer ended his employment for reasons that do not constitute work-connected misconduct. Based on the reasons for this employment separation, the claimant is not disqualified from receiving benefits. Since the claimant has not filed any weekly

clams, the issue of whether he is able to or available for work is not an issue that needs to be addressed at this time. If the claimant reopens his claim, he will at that time be required to provide information that he is able to and available for work and eligible to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw