

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARTHUR C ROWLAND
Claimant

APPEAL NO. 10A-UI-14246-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 08/01/10
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Arthur Rowland filed an appeal from a representative's decision dated October 8, 2010, reference 01, which denied benefits based on his separation from Heartland Express, Inc. of Iowa (Heartland). After due notice was issued, a hearing was held by telephone on December 1, 2010. Mr. Rowland participated personally. The employer participated by Dave Dalmasso, Human Resources Representative.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Rowland was employed by Heartland from March 30, 2007 until July 28, 2010 as a full-time truck driver. He was discharged as a result of an incident that resulted in damage to the employer's vehicle.

Mr. Rowland was in Stamford, Connecticut, on July 22, 2010, when he came to an underpass that had only 12 feet, one inch, of clearance. He knew the height of the company vehicle was 13 feet, six inches. He retreated and looked for an alternate route. He came to another underpass with a posted clearance of 13 feet, one inch. He did not contact the employer or his delivery location to determine if there was a route that did not involve an underpass. He attempted to go through but found that his vehicle was too tall. He then found another alternate route and delivered his load. The employer felt the incident was avoidable and, therefore, discharged Mr. Rowland. The above matter was the sole reason for the discharge.

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). The administrative law judge does not believe Mr. Rowland intended to cause damage to the employer's vehicle. There is no doubt but that he was negligent. A single act of negligence is not disqualifying unless it is indicative of a deliberate disregard for the employer's interests. Henry v. Iowa Department of Job Service, 391 N.W.2d 731 (Iowa App. 1986).

The administrative law judge concludes that Mr. Rowland's single act of negligence is sufficient to establish disqualifying misconduct. He acknowledged that he knew the height of the employer's vehicle. He also saw the posted clearance for the underpass. In short, he knew his vehicle was at least five inches too tall to clear the underpass. He could have sought an alternate route on his own or could have contacted someone else for a recommendation. Given the information he had, he had to have known there was a substantial possibility of damaging the vehicle if he was unsuccessful in clearing the underpass. In spite of the above factors, he chose to attempt to drive through.

The administrative law judge concludes that Mr. Rowland's actions on July 22 demonstrated a deliberate disregard for the employer's interests and standards. It is concluded, therefore, that disqualifying misconduct has been established. Benefits are denied.

DECISION:

The representative's decision dated October 8, 2010, reference 01, is hereby affirmed. Mr. Rowland was discharged by Heartland for misconduct. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw