

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Randall Ryan was employed by Heartland from July 28, 2004 until September 8, 2005. He was a full-time over-the-road driver. At the time he was hired he received a copy of the employer's policies, and attended an orientation to discuss the policies. As a driver he is responsible for the security of the employer's tractors and trailers at all times. When parked, the tractor and trailer should be secured and hooked together.

On Saturday, September 3, 2005, the claimant submitted a "macro" via the computer system which stated the tractor and trailer were secure and hooked together. During the weekend a call was made to the dispatch office reporting the trailer was sitting by itself at a gas station. Dispatch contacted Mr. Ryan and told him to hook up the tractor and secure the trailer.

A report of the incident was submitted to Operations Supervisor Jay Courtney on Monday, September 5, 2005. He dispatched the claimant with a load to the Iowa City terminal and he arrived on September 8, 2005. Mr. Courtney questioned the claimant and he admitted that the tractor was at his home for a few hours on Saturday so he could clean it out. He was discharged for failing to secure the company equipment when he detached the tractor from the trailer.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is not.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency,

unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant was discharged for failing to secure company equipment by having tractor and trailer attached at all times. He acknowledged he had done this for a few hours in order to clean out the tractor, and he had done this at various times throughout his employment since both tractor and trailer could not be parked near his home.

The employer has the right to expect employees to maintain the safety and security of company equipment and failure to do this is conduct not in the best interests of the employer. However, misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Newman v. IDJS, 351 N.W.2d 806 (Iowa App. 1984). In the present case the administrative law judge considers the claimant's conduct to be more of an error in judgment rather than any deliberate attempt to jeopardize the employer's equipment. When he submitted the report that the equipment was secure and hooked together, that was a correct statement of the facts. He did not unhook the tractor for any other purpose than to clean and maintain it, and this cannot be considered a personal or inappropriate use of the tractor.

The employer has failed to meet its burden of proof that the claimant was discharged for a willful and deliberate course of action contrary to Heartland's best interests and disqualification may not be imposed.

DECISION:

The representative's decision of October 3, 2005, reference 01, is affirmed. Randall Ryan is qualified for benefits provided he is otherwise eligible.

bgh/kjw