

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHONY T COBBINS
Claimant

APPEAL NO. 09A-UI-02729-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONTRACT TRANSPORT INC
Employer

**Original Claim: 01/18/09
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 18, 2009, reference 02, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on March 16, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Jean Nible participated in the hearing on behalf of the employer. Exhibits One through Eight and A, B, and C were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a relief driver hauling mail for the United States Postal Service from September 18, 2008, to December 20, 2008. On December 20, 2008, the claimant was given a route to drive from the Dubuque Post Office to the Cedar Rapids Post Office.

After the claimant reported to work and checked out the truck, he noticed the trailer brakes were not working properly. He called the shop and a supervisor to report the problems with the brakes. He decided to take the load to Cedar Rapids anyway, but after getting out of town about two miles outside Dubuque, he determined the truck was unsafe to drive in the snowstorm that hit the area that evening. He called the shop and the supervisor to let them know that he was returning to Dubuque. He brought the truck back and parked it at the Post Office and went home.

The employer never put the claimant on the schedule again because of what happened on December 20, 2008, and effectively discharged him.

The employer's account is not presently chargeable for benefits paid to the claimant, since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. I believe the claimant's testimony that he called the shop and a supervisor around the time he returned to Dubuque. I believe the truck was unsafe to drive that day due to the condition of the brakes and the weather conditions.

The employer's account is not presently chargeable for benefits paid to the claimant, since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated February 18, 2009, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw