

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RONALD C WILLIAMS
Claimant

HEARTLAND EXPRESS INC OF IOWA
Employer

APPEAL 14A-UI-05015-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/13/14
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 7, 2014, (reference 01) unemployment insurance decision that denied benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on June 3, 2014. Claimant participated. Employer participated through human resources representative David Dalmasso and safety director Don McGlaughlin. Since this separation did not involve a DOT drug screen, the record need not be sealed.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an over-the-road driver and was separated from employment on April 14, 2014. On that date he admitted to dispatcher/fleet manager Shawn Emery and McGlaughlin he had been arrested for operating a motor vehicle while intoxicated (OWI) in his personal vehicle during home time between April 11 and 13, 2014. A commercial driver's license (CDL) is required for the job. DOT rules require a 90-day minimum suspension of the CDL. The employer's policy prohibits employment with any OWI violations in the past five years. By that policy, the employer complies with DOT regulation and seeks to protect its interests in avoiding potential liability by employing a driver with a history of OWI. Claimant acknowledged receipt of the employer's policy handbook on August 15, 2012, during the first of three days of orientation. The employer follows a uniform procedure in orientation to go through driver's manual page by page.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. *Cook v. Iowa Dep't of Job Serv.*, 299 N.W.2d 698 (Iowa 1980).

The employer is not obligated to accommodate an employee during a license suspension or revocation period but does have a legal obligation to abide by state and federal transportation safety statutes and regulations and not allow unlicensed individuals to drive. While the license revocation issue was not related to his work, claimant's failure to maintain a valid, unrestricted driver's license as a known condition of the employment was misconduct sufficient to warrant a denial of benefits. While the revocation or suspension may be pending, claimant admitted to driving while intoxicated and the employer, as a business in the transportation industry, is acting reasonably to have a policy prohibiting employment of individuals with a history of OWI. Benefits are denied.

DECISION:

The May 7, 2014, (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs