

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MIGUEL A MUSA JR**  
Claimant

**APPEAL NO: 07A-UI-09479-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**  
Employer

**OC: 07/15/07 R: 12**  
**Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Miguel A. Musa, Jr. (claimant) appealed a representative's October 1, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Heartland Express Inc. of Iowa (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 23, 2007. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's representative/witness could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in May 2006. The claimant worked as a full-time over-the-road truck driver.

Prior to his employment separation, the claimant signed a paper indicating he would follow certain rest designations and routes. The claimant did this after he had inadvertently taken an incorrect route, which resulted in a late delivery.

On July 13, 2007, the claimant had to deliver a load at a certain time. The employer received a report that the claimant was driving erratically. The employer contacted the claimant as he was driving and told him about the erratic driving report. The claimant denied he had been driving erratically. The employer, however, told the claimant to pull off the road. The claimant planned to pull off and rest in about 90 minutes. The claimant declined to pull off the road at that moment because he had to make a delivery at a specified time. The employer discharged the claimant for failing to pull off the road. The employer did not warn the claimant that he could be discharged if he did not follow the employer's directions. The claimant's job was not in jeopardy prior to July 13, 2007.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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 may have had business reasons for discharging the claimant. Since the employer did not participate in the hearing, it is not known how reliable the erratic driving report was or why the employer did not believe the claimant. The claimant may have used poor judgment when he declined to stop immediately. Based on the facts presented during the hearing, the claimant established a justifiable reason for not immediately pulling off the road. Additionally, the claimant had no idea his failure to follow an unreasonable request (the claimant's perception) would jeopardize his employment. The evidence does not establish that the claimant intentionally or substantially disregarded the employer's interests and he did not commit work-connected misconduct. As of July 15, 2007, the claimant is qualified to receive unemployment insurance benefits.

## DECISION:

The representative's October 1, 2007 decision (reference 01) is reversed. The employer discharged the claimant, but did not establish that he committed work-connected misconduct. As of July 15, 2007, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw