

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL MERTZ
Claimant

DECKER TRUCK LINE INC
Employer

APPEAL NO. 14A-UI-02137-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/26/14
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

Decker Truck Line, Inc. (employer) appealed an unemployment insurance decision dated February 17, 2014, (reference 01), which held that Michael Mertz (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 18, 2014. The claimant participated in the hearing with Sara Rentfrow, although she did not provide testimony. The employer participated through Brenda McNealey, Vice-President of Human Resources and Andrea Kloberdanz, Benefits Administrator. Employer's Exhibits One and Two and Claimant's Exhibits A through E were admitted into evidence.

ISSUES:

The issues are whether the claimant is disqualified for benefits, whether he was overpaid unemployment insurance benefits, whether he is responsible for repaying the overpayment and whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant most recently worked as a full-time over-the-road truck driver and was employed from October 17, 2013, through January 15, 2014. A condition of employment is a valid commercial driver's license (CDL) with a current medical certificate. At the time of hire, the claimant had a valid CDL but had to see the employer's physician to obtain a medical certificate. He saw the employer's physician in Fort Dodge and obtained a temporary medical certificate which was valid from October 14, 2013, through January 14, 2014.

The claimant had to go home for a family emergency on December 23, 2013. His personal leave turned into a non-work-related medical leave but he was released by his family physician to return to work on December 30, 2013. The employer needed the claimant to be seen by their company doctor in Clinton so requested he sign a records release, which he submitted on January 3, 2014. The claimant emailed or called the employer almost every day after that in an attempt to renew his medical certification. His records had not been delivered by the morning of

January 15, 2014, so his employment was terminated. The claimant's medical records were delivered to the employer's physician on that same day but it was too late.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on January 15, 2014, because his medical certification expired on January 14, 2014. He did everything he could to update his medical certification prior to its expiration. There is no evidence of intentional or willful misconduct. Benefits are allowed.

DECISION:

The unemployment insurance decision dated February 17, 2014, (reference 01), is affirmed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css