

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON J BEAU
Claimant

APPEAL NO: 14A-UI-03075-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNITED PARCEL SERVICE
Employer

**OC: 02/16/14
Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Suspension

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 10, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because he had been discharged for nondisqualifying reasons. The claimant participated at the April 11 hearing. Greg Wroblewski, a business manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits during his suspension.

ISSUE:

Did the employer suspend the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in September 1993. The claimant worked as a driver. The claimant was involved in a traffic accident on February 12, 2014. He was driving around a round-about when another vehicle stopped very quickly. The claimant could not stop fast enough on the snow. He slid into the back end of another vehicle. There was \$10,000 in damage from the accident. The police were called, but no one received a citation.

This was the claimant's first accident. Initially, the employer discharged the claimant for this accident. The claimant grieved his termination and the employer changed the termination to a one-month suspension without pay. The claimant returned to work on March 24, 2014.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges or suspends him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The employer has the burden to prove the claimant was suspended or 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 suspension or discharge is not at issue in an unemployment insurance case. An employer may be justified in suspending or 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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. Iowa Admin. Code r. 871-24.32(1)(a).

The claimant was involved in an accident on February 12, 2014. The facts do not establish that he intentionally or substantially disregarded the employer's interests. He did not receive a traffic citation and this was the first accident during his employment.

The employer established business reasons for suspending the claimant, but the claimant did not commit work-connected misconduct. As of February 16, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's March 10, 2014 determination (reference 01) is affirmed. The employer suspended the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of February 16, 2014, the claimant is qualified to receive benefits during his suspension, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs