

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS ARMSTRONG
Claimant

APPEAL NO. 07A-UI-11389-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 11/04/07 R: 12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Thomas Armstrong (claimant) appealed an unemployment insurance decision dated November 29, 2007, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Heartland Express Incorporated of Iowa (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 28, 2007. The claimant participated in the hearing. The employer participated through Lea Peters, Human Resources Generalist. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer discharged the claimant for work-related misconduct?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time over-the-road truck driver from August 10, 1995, through November 6, 2007, when he was discharged for failing to report an accident. The employer's work policy requires employees to immediately report an accident to the employer's risk management department and failure to do so will result in the employee's termination. The claimant was aware of this policy and had reported previous accidents to the employer. He was involved in an accident on October 10, 2007 but never reported the accident. He intentionally did not report the accident because he was about to receive a safety bonus and would not get it if the employer knew he had an accident. The claimant paid cash to the other owner-operator to cover the costs of the accident, presumably with the hope that the cash payment would be the end of it. The employer only became aware of the accident, and the claimant's failure to report it, on November 1, 2007, when the other company involved contacted the employer's risk management department. The employer subsequently questioned the claimant, who admitted the accident and his choice not to report it, and he was discharged at that time.

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.

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.

871 IAC 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.

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 claimant was discharged for failing to report an accident as required. Not only did he fail to report the accident, but he attempted to cover it up so that he would be eligible to receive an upcoming safety bonus. The claimant's conduct was a willful and material breach of the duties and obligations to the employer and a substantial disregard for the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated November 29, 2007, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits, because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw