

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES O HARMON
Claimant

APPEAL NO. 14A-UI-00113-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FEDEX FREIGHT EAST INC
Employer

**OC: 11/24/13
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, James Harmon, filed an appeal from a decision dated December 24, 2013, reference 03. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 28, 2014. The claimant participated on his own behalf. The employer, Fedex, participated by Manager of Service Center Nathaniel Dixon.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

James Harmon was employed by FedEx from beginning July 25, 2011, as a full-time driver. On November 7, 2013, he was involved in his fourth preventable accident with company equipment. All these involved collisions with stationery objects, the last one an overhead door at a customer's business. He had received warnings after each accident and had been told his job was in jeopardy. He was disqualified from driving by the company after the final accident.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 claimant was removed from his job as a driver because of four preventable accidents for which he was solely responsible. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The unemployment insurance decision dated December 24, 2013, reference 03, is affirmed. James Harmon is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css