

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

YOLANDA J WINSTON
Claimant

APPEAL NO: 10A-UI-08074-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 05/09/10
Claimant: Respondent (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer appealed a representative's May 27, 2010 decision (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non disqualifying reasons. A telephone hearing was held on July 21, 2010. The claimant participated in the hearing. Lea Peters, a human resource generalist, appeared on the employer's behalf. 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:

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

FINDINGS OF FACT:

The claimant started working for the employer on January 28, 2008. She worked as a full-time over-the-road truck driver. The employer's policy informs employees that if they are involved in a preventable accident or any accident that results in more than \$4,500.00 in damages, the employer may discharge the employee.

Prior to April 13, 2010, the claimant's job was not in jeopardy. On April 13, the claimant was driving and trying to get into the right hand lane. The claimant was approaching an intersection with lights. She had slowed down to 30 miles an hour in a 40 or 45 mile an hour speed zone. The claimant knew she had a vehicle on the right side of her truck and was paying attention to that vehicle's location so she could move into the right-hand lane. When the claimant noticed the light at the intersection had turned yellow, she had two choices: go through the intersection and warn other drivers she could not stop or attempt to suddenly stop which could result in her tractor trailer jackknifing. The claimant chose to go through the intersection.

As the claimant went through the intersection, she honked her horn to warn the other drivers she could not stop. When the light changed, a vehicle waiting to turn left collided with the claimant's truck because she had not yet gotten through the intersection. The claimant received

a traffic citation for not stopping at the light. As of the date of hearing, the employer has paid out \$6,600.00 in damages.

The employer's safety director determined the claimant's accident was preventable. As a result of the April 13 accident, the employer discharged the claimant.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code section 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 established business reasons for discharging the claimant. Even if the accident was preventable, the facts do not establish that the claimant intentionally drove her vehicle so she would have an accident. Instead, the claimant made a split decision as to what course of action would be safer.

The claimant does not have a history of accidents or a history of driving negligently or carelessly. The claimant took reasonable steps when she realized the light at the intersection had turned yellow. While the claimant may have made an error in judgment, she did not commit work-connected misconduct. Therefore, as of May 9, 2010, the claimant is qualified to receive benefits.

DECISION:

The representative's May 27, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected

misconduct. As of May 9, 2010, the claimant is qualified to receive benefits, provided she 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