

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES C PHILLIPS**

Claimant

**APPEAL NO. 13A-UI-07163-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**

Employer

**OC: 05/05/13**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated June 7, 2013, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on July 25, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Dave Dalmasso participated in the hearing on behalf of the employer. Exhibit A was admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked as an over-the-road truck driver for the employer from May 2, 2012, to September 26, 2012. He was informed and understood that having a valid commercial driver's license was a condition of employment.

On September 26, 2012, the claimant's driver's license was checked during an inspection and law enforcement determined that his license was suspended by the state of Nevada in July 2012. His truck was impounded.

He was never notified that his license was suspended, and in fact, the suspension was in error, as certified by the Nevada Department of Motor Vehicles. As of September 26, 2012, the claimant had a valid commercial driver's license.

The claimant's employment was terminated when the claimant could not get the matter regarding his commercial driver's license suspension resolved within 15 days. The claimant made a conscientious effort to clear up the problem, but was not able to due to the non-responsiveness of Nevada Department of Motor Vehicles.

## REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

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, 11 (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 substantial and 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).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case. His license should never have been suspended and he was not responsible for the mistake.

## DECISION:

The unemployment insurance decision dated June 7, 2013, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs