

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DALE G RICHTER**  
Claimant

**APPEAL NO. 09A-UI-18710-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMMUNITY AUTO PLAZA INC**  
Employer

**OC: 11/15/09  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated December 11, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on January 26, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Bryan Cauvelier participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a lube technician from January 2007 to November 17, 2009. His supervisor was the service manager, Bryan Cauvelier.

Cauvelier warned the claimant on May 22, 2009, after he had done oil changes on cars on April 29 and May 22 but failed to put the oil filter on the car before backing it out of the service bay. Cauvelier told the claimant that he could not have that kind of problem again.

On November 17, 2009, the claimant was backing a car that had a back up camera system. He had not backed a vehicle with a back up camera before. Even though it appeared that he had enough room using the camera, he backed into the car behind him damaging both cars.

On November 17, 2009, Cauvelier discharged the claimant due to the accident that day and based on the past warning he had been given.

**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 section 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 (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. The final incident was not the kind of repeated negligence that equals willful misconduct in culpability.

**DECISION:**

The unemployment insurance decision dated December 11, 2009, 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