

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PARIS L WELCH**

Claimant

**APPEAL NO: 14A-UI-02161-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**

Employer

**OC: 02/02/14**

**Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 20, 2014, reference 01, that held he voluntarily quit without good cause on January 31, 2014, and benefits are denied. A telephone hearing was held on March 19, 2014. The claimant participated. David Dalmasso, HR representative, participated for the employer. Claimant Exhibit A was received as evidence.

**ISSUE:**

Whether claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on May 5, 2010, and last worked for the employer as a full-time over-the-road driver on December 2, 2013. Claimant had the required Class A CDL with medical certificate.

On December 2 claimant contacted dispatch about his ability to drive and he was instructed to check with the safety department. Claimant questioned his ability to drive because he had just started taking Tramadol (mild narcotic) for leg pain. He was instructed not to drive and park his truck. Claimant complied.

The employer decided to offer claimant FMLA due to his health condition and it sent some paperwork by regular mail that claimant did not receive. Claimant had called in to the employer about whether he was eligible for disability. The employer had re-mailed claimant FMLA paperwork on January 9. The employer policy is that general leave periods are to last only 15 days.

When the employer did not receive FMLA papers, it sent claimant a certified letter on January 30, 2014 terminating his employment as a voluntary quit.

**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.

The administrative law judge concludes employer failed to establish claimant was discharged for misconduct on January 30, 2014.

It is the employer that initiated the separation on December 2, 2013 instructing the claimant not to drive and park his truck. The employer wanted to put claimant on leave to hold his job and it was not requested by claimant. Although the employer sent claimant a certified letter terminating his employment it did not do so when sending FMLA paperwork. While claimant might not have been on mutually agreed leave of employment, the employer kept him as an employee until it terminated as a voluntary quit.

The employer termination is a discharge for no act of misconduct as claimant was not on an agreed leave that is a voluntary period of unemployment. The employer never sent claimant a certified letter stating he needed to return to work by a certain date or on approved leave by a certain date such that he would be terminated.

**DECISION:**

The department decision dated February 20, 2014, reference 01, is reversed. The claimant was not discharged for misconduct on January 30, 2014. Benefits are allowed, provided claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/css