

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN R NICHOLS

Claimant

SCHNEIDER NATIONAL CARRIERS INC

Employer

APPEAL 23A-UI-06653-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/04/23

Claimant: Respondent (2)

Iowa Code § 96.5(2)a – Discharge from Employment

Iowa Code § 96.5(2)d(2) – Discharge for Knowing Violation of Company Rule

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On July 3, 2023, employer Schneider National Carriers Inc. filed an appeal from the June 22, 2023 (reference 01) unemployment insurance decision that allowed benefits based on a determination that claimant was dismissed on May 31, 2023 and the employer did not establish the discharge was for willful or deliberate misconduct. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Monday, July 24, 2023. Claimant John R. Nichols did not appear or participate. Employer Schneider National Carriers Inc. participated through testimony of witnesses Christina Chaffin, Account and Driver Manager; and Jeffrey Morse, Client Service Operations Manager; and was represented by Melissa Hill of ADP UC Express/Equifax. The administrative law judge took official notice of the administrative record.

ISSUE:

Whether the claimant was discharged from employment for disqualifying misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for this employer on April 4, 2012. Most recently, he worked full-time hours as a truck driver. Claimant's employment ended on May 31, 2023, when he was discharged for failing to report two accidents that caused damage to his work vehicle.

On May 30, Chaffin learned that at the truck stop frequented by drivers, claimant had been talking about hitting a pole at a customer location and had damaged his truck as a result. Multiple drivers had reported these comments to the driver leader, who reported the comments to Chaffin. Chaffin was on-site in Omaha, so she took a look at claimant's truck and then spoke with him.

When Chaffin reviewed claimant's truck, she saw fresh damage on the truck's passenger-side bumper. She also noticed puncture marks on the front of the vehicle. Chaffin then spoke to claimant and asked him if what the other drivers were saying about him hitting a pole was true.

He indicated it was, that he had hit “a couple of poles.” He also said there were puncture marks on his bumper but they were not from this most recent accident, they were from hitting a deer several weeks ago. Chaffin asked whether claimant had reported either accident to the employer, and the claimant said he had not and that he did not think it was a big deal. He also told Chaffin he “forgot” to report the two incidents. Claimant admitted to Chaffin that he was aware of the employer’s policy requiring employees to report accidents. Chaffin instructed claimant to immediately contact Safety and report the most recent accident, and he did this. After speaking with claimant, Chaffin contacted Morse at the operating center in Urbandale to report her findings. Morse then contacted the Safety Department, and then he requested claimant drive from Omaha to Urbandale to speak with him the next day.

Morse spoke with claimant on May 31. Claimant again stated he forgot to report the two incidents. He was not able to explain to the employer’s satisfaction why he could recall the incidents when speaking with coworkers at the truck stop, yet he could not recall the incidents sufficiently to properly report them to the employer. Claimant reiterated that he did not think these accidents were a big deal. After speaking with claimant, Morse consulted with the Safety Department and determined he would be discharged.

The employer’s policy requires every driver to report an accident or any damage to their vehicle within four hours of the accident/damage occurring. This policy is of utmost importance to the employer. The employer goes through the policy first with drivers at the time of hire, and then every driver reviews the policy at the time of their annual review. This policy is discussed on a daily basis in the workplace. “99.9% of the time,” a driver-associate who fails to report an accident is discharged. Claimant had also previously followed that policy on eight prior occasions, after both accidents for which he was found at fault and accidents for which he was not found at fault.

The administrative record reflects that claimant has no received unemployment benefits since filing a claim with an effective date of June 4, 2023. The administrative record also establishes that the employer did not participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for disqualifying misconduct. Benefits are withheld.

Iowa Code section 96.5(2)(a) and (d) provide:

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 disqualification shall continue 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.

...

d. For the purposes of this subsection, “*misconduct*” means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee’s contract of employment. Misconduct is

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 even 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. Misconduct by an individual includes but is not limited to all of the following:

...

(2) Knowing violation of a reasonable and uniformly enforced rule of an employer.

...

(10) Falsification of any work-related report, task, or job that could expose the employer or coworkers to legal liability or sanction for violation of health or safety laws.

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy. The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988).

Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). The focus is on deliberate, intentional, or culpable acts by the employee.

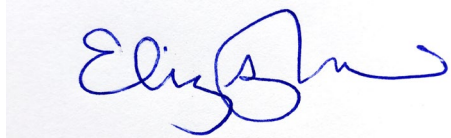
Here, the employer has presented substantial evidence that claimant failed to report two accidents that resulted in damage to his work vehicle. Claimant was aware of both of these accidents, based on his conversations about them with coworkers at the truck stop and his identification of the second accident during the conversation with Chaffin. Claimant had previously followed the employer's accident-reporting policy on multiple occasions, demonstrating that he certainly knew what to do when an accident occurred. Regardless of whether claimant himself felt the accidents were "a big deal," he had an obligation to the employer to report damage to their property and, in the case of the more recent accident, potential damage to the customer's property. Claimant's deliberate disregard of this obligation amounts to misconduct. Benefits are withheld.

As claimant has received no unemployment benefits since separating from this employer and opening his claim for benefits, the issues of overpayment and participation are moot.

DECISION:

The June 22, 2023 (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

The issues of overpayment and chargeability are moot.



Elizabeth A. Johnson
Administrative Law Judge

July 26, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.