

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROGER D MIHM**  
Claimant

**GRAY TRANSPORTATION INC**  
Employer

**APPEAL NO: 12A-UI-10420-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/05/12  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated August 22, 2012, reference 01, that held he was discharged for misconduct on August 3, 2012, and benefits are denied. A telephone hearing was held on September 25, 2012. The claimant did not participate. Darren Gray, Owner, participated for the employer.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment as a full-time over-the-road driver on June 15, 2007, and last worked for the employer on August 3, 2012. The employer sent a notice to claimant (and all drivers) on June 13 and July 16 regarding CSA regulations that needed to be followed while driving for the employer.

Unbeknownst to the employer, claimant was stopped by Wisconsin law enforcement on July 30, 2012 and cited for CSA violations: excessive speed, failure to yield to an emergency vehicle; exceeding driving allowable hours; cargo not secured, unsecured fire extinguisher, inoperable clearance and marker lamps. Claimant failed to notify the employer about the incident.

The employer safety director learned about the incident when he viewed a CSA violation report on August 3, and he confronted claimant who laughed about it. He did not contest the violations. Claimant was discharged for failing to report the incident/violations and for the intentional violations that was a disregard of the employer notification. The employer is given a D.O.T. safety score by the D.O.T., and these violations can result in an employer audit.

Claimant failed to respond to the hearing notice.

**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.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being 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 evil 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. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on August 3, 2012, for disregarding employer notice of a requirement to adhere to CSA regulations.

The employer sent claimant two notices regarding a requirement that he adhere to CSA driving regulations. His multiple violations of the regulations on July 30 with a failure to notify the employer constitute job disqualifying misconduct.

**DECISION:**

The department decision dated August 22, 2012, reference 01, is affirmed. The claimant was discharged for misconduct on August 3, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs