

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RODNEY HARDEN**

Claimant

**APPEAL NO: 09A-UI-05345-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**

Employer

**OC: 03/01/09**

**Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Rodney Harden (claimant) appealed a representative's March 24, 2009 decision (reference 02) that concluded he was not qualified to receive benefits and the account of Heartland Express Inc. of Iowa (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 1, 2009. The claimant participated in the hearing. Dave Dalmasso, a human resource representative, and Jason Dart, a terminal manager, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on August 22, 2007. The claimant worked as a full-time over-the-road driver. The employer hired the claimant to work as a Jacksonville Regional Driver. At the time of hire, the claimant acknowledged that sometimes he would be asked to run and deliver outside his region and the employer would return him to his region as soon as possible. The claimant also acknowledged when he was hired that he would commit to all load assignments unless he could not do the load legally or safely. (Employer Exhibit One.)

Although the claimant's personnel file indicates he refused loads on November 17 and 20, 2007, March 25 and July 2, 2008, the claimant denied he refused loads on these dates. The claimant does not remember Dart talking to him in July 2008 about refusing loads or warning him that if he refused another load, he could be discharged. The claimant understood that if he refused a load, the employer could let him sit for 24 hours before assigning him another load.

In early February 2008, Dart understood from a dispatcher, L., the claimant refused to take a load to North Carolina until he was routed back to Florida. Dart became involved in finding the

claimant a load back to Florida because he understood the claimant refused loads and argued with a dispatcher.

In early February, the claimant received a pre-plan to drop a load in North Carolina. The claimant went to North Carolina and informed the dispatcher he did not have hours to drive to Florida. An hour later, the claimant received a pre-plan to take a load to Tennessee. When the claimant received this assignment, he knew there was bad weather where he had been assigned. The claimant told the dispatcher about the bad weather, but took the load. It took the claimant a great deal longer to get to Tennessee because of the adverse weather conditions. When he arrived in Tennessee, he did not have hours to drive and further and contacted Iowa. Iowa personnel told him to take a break and then run the load. While the claimant was driving, Dart called him, but the connection was bad so the claimant indicated he would talk to him later. When the claimant received a load assignment to Kentucky, he indicated he would take the load but asked if the employer could then run him to Florida. With Dart's assistance, the employer had the claimant relay the load in Georgia and then had him drive back to Florida. The claimant admits he asked the dispatcher to run him back to Florida. In early February, the claimant did not refuse a load.

On February 10, the employer discharged him for refusing a load the week before. Dart understood the claimant had told a dispatcher that he was not going to pull a load out of his region unless he was routed back to Florida and he would sit if he had to.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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 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).

Dart understood from a dispatcher, who did not testify during the hearing, the claimant refused a load. Since the claimant's testimony is credible, his testimony must be given more weight than the employer's reliance on hearsay information from a dispatcher who did not testify at the hearing. Even though the employer testified about a verbal warning the claimant received in July 2008 that the claimant could not refuse assignments, the claimant could not remember the verbal warning. This is the problem with verbal warnings or undocumented verbal warnings. Even though dispatchers documented several times that the claimant refused a load in 2007 and 2008, the claimant questioned the accuracy of the noted incidents and asserted he had not refused any assignments without a legitimate reason – could not legally drive the load or there were safety issues.

Based on the information the employer received from a dispatcher, the employer established business reasons for discharging the claimant. The facts do not however, establish that the claimant refused a load in early February. The evidence does not establish that the claimant committed work-connected misconduct. As of March 1, 2009, the claimant is qualified to receive benefits.

**DECISION:**

The representative's March 24, 2009 decision (reference 02) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of March 1, 2009, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css