

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM G COGGIN
Claimant

APPEAL NO. 09A-UI-05745-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

**Original Claim: 03/15/09
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Heartland Express Inc. of Iowa (employer) appealed a representative's April 2, 2009 decision (reference 01) that concluded William G. Coggin (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 8, 2009. The claimant participated in the hearing. Dave Dalmasso appeared on the employer's behalf and presented testimony from two other witnesses, John Clark and Terry Douglas. 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:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 8, 2003. He worked full time as an over-the-road truck driver. His last day of work was March 11, 2009. The employer discharged him on that date. The reason asserted for the discharge was unauthorized use of the employer's equipment by driving out of route and a late delivery.

The claimant's home is in Huntsville, Alabama. On March 6, the claimant was instructed to pick up a load at the employer's yard in Hinsdale, Illinois, on March 7, which he did as scheduled around noon. The load did not appear to be the one he had expected which was to be delivered to the Atlanta, Georgia area on February 11, which would take him through his home. This appeared in conflict with the information he got on his QualCom. He immediately tried to call the dispatch office to clarify the discrepancy in his instructions, but was unable to reach his regular dispatcher, Mr. Douglas. He told the person that he did speak to that his understanding was that he was to take his load to Georgia, so the person told him then that was what he should do. He then headed towards Huntsville, a distance of 548 miles.

In fact, the load was to have been delivered on March 9 by 8:00 a.m. at a site near Chicago, only about 20 miles from the Hinsdale yard. It had been the employer's belief that the claimant

was just going to be waiting in the Hinsdale/Chicago from March 6 until March 9. The employer's intent had been that the claimant would then pick up a second load in the Hinsdale yard, which would be the one to go to Georgia.

On March 8 the employer's dispatcher contacted the claimant and clarified that the load he had on his truck now at his home was supposed to be delivered to the Chicago site. The claimant left his home around 2:24 a.m. on March 9. The load was then delivered at 2:33 p.m. on March 9.

The claimant had received some prior warnings on late deliveries, including March 12, 2008 and December 3, 2008. He had been given a verbal warning on March 25, 2008 for taking the truck home empty rather than loaded as instructed.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). The question is not whether the employer was right to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. Infante v. IDJS, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate matters. Pierce v. IDJS, 425 N.W.2d 679 (Iowa App. 1988).

In order to establish misconduct such as to disqualify a former employee from benefits, an employer must establish the employee was responsible for a deliberate act or omission that was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior that 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

The reason cited by the employer for discharging the claimant is his diversion from his route and the late delivery on March 9. Under the circumstances of this case, particularly the claimant's attempt to resolve the seemingly conflicting instructions on March 7, the claimant's diversion and late delivery were the result of inefficiency, unsatisfactory conduct, inadvertence, or ordinary negligence, or were due to a good-faith error in judgment or discretion. The employer has not met its burden to show disqualifying misconduct. Cosper, supra. Based upon the evidence provided, the claimant's actions were not misconduct within the meaning of the statute, and the claimant is not disqualified from benefits.

DECISION:

The representative's April 2, 2009 decision (reference 01) is affirmed. The employer did discharge the claimant, but not for disqualifying reasons. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw