

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RONALD D DUNN**  
Claimant

**APPEAL NO: 12A-UI-02165-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RICHERS TRUCKING INC**  
Employer

**OC: 01/15/12**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated February 23, 2012 reference 01 that held it failed to establish misconduct in the claimant's discharge on December 27, 2011, and benefits are allowed. A telephone hearing was held on March 20, 2012. The claimant participated. Scott Richers, CEO, and Paula Houston, Connie Meller, Secretary(s), participated for the employer.

**ISSUE:**

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

**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 work on December 9, 1992 and last worked for the employer as a full-time over-the-road driver on December 27, 2011. Claimant was part of a driving team for the course of his employment. He had suffered some health issues that he made known to the employer. He had talked about retiring for some time.

On December 13 claimant talked about retirement and he was led into a meeting with the employer. Claimant was told by the employer it was accepting his retirement. He last worked on December 27. He never signed any statement of an intention to retire or that he was leaving employment to retire.

Claimant came back to the employer on January 13 requesting further work, but the employer responded it was better that he remained retired.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 the employer failed to establish claimant was discharged for misconduct on December 27, 2011.

The employer pushed claimant into retirement without his consent. There is no employer document that claimant gave notice he was resigning or a statement that he was leaving due to retirement. While claimant expressed intent to retire at some future date, the employer's act of stating he was retiring is a discharge for no act of misconduct.

**DECISION:**

The department decision dated February 23, 2012, reference 01, is affirmed. The claimant was discharged for no act of misconduct on December 27, 2011. Benefits are allowed, 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