

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY BELLAMY
Claimant

APPEAL NO. 09A-UI-18063-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

**Original Claim: 10/18/09
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Timothy Bellamy filed a timely appeal from a representative's decision dated November 23, 2009, reference 01, that denied benefits based upon his separation from Heartland Express Inc. of Iowa. After due notice was issued, a telephone conference hearing was scheduled for and held on December 30, 2009. Mr. Bellamy participated personally. Participating as a witness for the claimant was his wife, Gerline Bellamy. The employer participated by Ms. Leah Peters, human resource generalist.

ISSUE:

At issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Timothy Bellamy was employed as a full-time over-the-road tractor trailer driver for Heartland Express Inc. of Iowa from April 15, 2009, until September 19, 2009, when he was discharged from employment.

The claimant was discharged after he turned in his most recent logs two weeks late and an audit of the claimant's logs showed more than one-half of the entries to be inaccurate. At the time of hire, the claimant was provided orientation and training and was aware of the company's log requirements and of DOT regulations. Under federal regulations, drivers are required to make timely and accurate entries in their daily logbooks.

Although Mr. Bellamy had received a number of warnings from the company and had been given additional training, he continued to turn his logs in late. The claimant was issued a final warning on August 31, 2009, and was aware that continued log violations would result in his termination from employment. Mr. Bellamy had no explanation to the company for his most recent failure to keep timely and accurate logs.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

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.

Here, the evidence establishes that Mr. Bellamy was aware of the company's logbook requirements and was aware of DOT regulations that also required driver's logs to be kept on a daily basis and to be kept accurately. The evidence establishes that the employer acted reasonably in providing numerous warnings to Mr. Bellamy, as well as remedial training, in an effort to keep the claimant as a company driver. When the claimant continued to submit his logs late with substantial deviations from his actual driving times and duties, the claimant was discharged from employment. The claimant's failure to accurately and timely report his logs placed the company at risk of DOT violations. Mr. Bellamy had demonstrated the ability to accurately and timely report his logs, but failed to do so on a consistent basis.

Based upon the evidence in the record, the administrative law judge concludes that the employer has sustained its burden of proof in establishing sufficient job misconduct to warrant the denial of unemployment insurance benefits.

DECISION:

The representative's decision dated November 23, 2009, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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