

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN W TROST**  
Claimant

**APPEAL NO. 08A-UI-11421-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**  
Employer

**OC: 10/26/08 R: 02**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, John Trost, filed an appeal from a decision dated November 26, 2008, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 17, 2008. The claimant participated on his own behalf. The employer, Heartland Express, participated by Human Resources Representative David Delmasso. Exhibit One was admitted into the record.

The claimant was using a cell phone and had been advised before the hearing began that cell phones were not recommended. He was further informed if he lost the connection during the hearing, the administrative law judge could not call him back until he contacted the Appeals Section to indicate his cell phone was working again. Mr. Trost lost the connection at 3:38 p.m. By the time the record was closed at 3:39 p.m., the claimant had not contacted the Appeals Section and the hearing concluded without him.

**ISSUE:**

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

**FINDINGS OF FACT:**

John Trost was employed by Heartland Express from March 21, 1994 until October 1, 2008 as a full-time over the road truck driver. On March 6, 2006, the claimant received a verbal warning from the terminal manager in O'Fallon, Missouri. The interior of his truck, the cab, and the sleeper, was filthy with two or three weeks' worth of old newspapers, two or three broken fans, empty beverage containers, useless pens, and other garbage. This is a violation of the company policy that states discharge may occur for any "abuse" of the interior of the truck.

On October 1, 2008, the claimant was at a terminal in Virginia where he was notified he would have to drive another truck. The maintenance mechanics found the interior of the truck he had been driving to be filthy. There were empty water and soda pop containers, newspapers, food wrappers, and broken fans on the floor of the cab and sleeper, garbage on the seats, and cigarette butts and ash on the console. A bag of garbage was hanging from the ceiling of the

sleeper immediately behind the cab. Pictures were taken and sent to Cliff Chapman in North Liberty, Iowa, as the head of the over-the-road truckers. Mr. Chapman notified the claimant by phone that same day he was discharged for abuse of the interior of the truck.

The employer's concern with the interior of the truck involved maintenance of the equipment and the resale value of the truck. Such damage as the claimant caused to his truck was detrimental to those interests.

## **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 claimant was aware of the policy that required him, as a driver, to maintain the interior of his truck in good order. He was also warned about this in March 2006, but still continued to abuse the truck by the accumulation of garbage and waste. He asserted the pictures were taken before he could clean out the truck but could not provide an adequate explanation as to why there was so much garbage that needed to be cleaned out at all.

The claimant asserted this was garbage that had accumulated under the seats and in between fixtures. But even from the little that was discernable from the poor-quality photos, it is evident this is not correct. The hanging garbage bag and the clutter on the floor could not merely be a few items pulled out from under the seats or hard to reach corners. The claimant maintained he had long periods of time between checking in at terminals where he could clean his truck, but

could not explain why he did not dispose of the garbage when he would be at a truck stop fueling or eating during his trips.

Mr. Trost seriously abused the employer's property by allowing a copious amount of filth and garbage to accumulate in the truck. This is conduct not in the best interests of the employer and the claimant is disqualified.

**DECISION:**

The representative's decision of November 26, 2008, reference 01, is affirmed. John Trost is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw