

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DANNY D SCHOON
19352 CO RD D62
MONTICELLO IA 52310-7699

HILL & WILLIAMS BROS INC
625 – 44TH ST
MARION IA 52302-3842

Appeal Number: 06A-UI-03792-DWT
OC: 02/26/06 R: 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Danny D. Schoon (claimant) appealed a representative's March 24, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Hill & Williams Brothers, Inc. (employer) would not be charged because the employer discharged the claimant for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 24, 2006. The claimant participated in the hearing. Prior to the April 24 hearing, the employer notified the Appeals Section indicating the employer decided no one would participate at the hearing on the employer's behalf. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in November 2000. The claimant worked as a full-time semi-truck driver. Prior to February 16, 2006, the claimant's job was not in jeopardy.

On February 16, the employer told the claimant to bring back his load because of a snowstorm. After the claimant returned, the employer indicated the claimant would have to take the load out on February 17 and/or 18. The claimant drove Sunday through Thursday and had Friday and Saturday off. The claimant informed the employer he could not drive these days because he already had worked extra hours for another driver who had called in sick that week, he had appointments scheduled for Friday and he would not work on his days off.

The claimant talked to the employer the next week about load. The employer did not assign the claimant any loads the week of February 19. On February 25, 2006, the employer told the claimant he would not be assigned anymore loads because the employer understood he had quit when the claimant refused to take a load on February 17 or 18.

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 1, 2-a. The facts do not establish that the claimant intended to quit his employment. Even though the claimant declined to take a load on February 17 and 18, he did not quit, he only declined to work on days he was normally scheduled off.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant. The employer may have had compelling reasons for ending the claimant's employment. The facts presented at the hearing do not establish that the claimant committed work-connected misconduct. As of February 26, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 24, 2006 decision (reference 01) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of February 26, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kkf