

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES M DUCKETT
Claimant

APPEAL NO. 08A-UI-08375-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 08/03/08 R: 12
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

James Duckett filed an appeal from a representative's decision dated September 8, 2008, reference 01, which denied benefits based on his separation from Heartland Express, Inc. of Iowa (Heartland). After due notice was issued, a hearing was held by telephone on October 6, 2008. Mr. Duckett participated personally. The employer participated by Leah Peters, Human Resources Generalist.

ISSUE:

At issue in this matter is whether Mr. Duckett was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Duckett's last period of employment with Heartland was from November 15, 2006 until January 10, 2008. He was employed as an over-the-road driver. The employer has a written work rule, of which Mr. Duckett was aware, that prohibits drivers from having inverters in the vehicles. An inverter plugs into the cigarette lighter and converts energy to power electrical appliances, such as a laptop or cell phone. The written policy is contained in the policy manual Mr. Duckett received at the time of hire. Messages regarding inverters were sent to all drivers by way of the computer system in the vehicles. The messages were sent on October 31, 2007; December 10, 2007; and January 2, 2008 reminding drivers that they were not to have inverters in the vehicles. The devices are considered a safety hazard because they can cause fires.

The decision to discharge Mr. Duckett was prompted by the fact that an inverter was found in his vehicle on January 9, 2008. It had been in his vehicle for approximately two to three months. He was notified of his discharge on January 10. The above matter was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Duckett was discharged because he had an inverter in his company vehicle in violation of a known work rule. He had ample notice that such conduct could result in his discharge from Heartland. He had just received a computer reminder about inverters on January 2, 2008. In spite of the prior notice regarding inverters, he still had one in his vehicle on January 9, 2008. If it was not being used, he had ample notice that it should be removed from the vehicle.

The employer prohibits inverters because they can cause fires. Mr. Duckett's conduct imperiled not only the employer's vehicle but also any freight he may have been hauling. The employer had the right to expect him to comply with safety standards. Given the number of reminders he received about inverters, the administrative law judge must conclude that his retention of the inverter was deliberate and intentional. Because of the potential for harm to the employer, the administrative law judge concludes that substantial misconduct has been established by the evidence. Accordingly, benefits are denied.

DECISION:

The representative's decision dated September 8, 2008, reference 01, is hereby affirmed. Mr. Duckett was discharged by Heartland for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css