

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

PAUL J HOUSEMAN
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HEARTLAND EXPRESS INC OF IOWA
2777 HEARTLAND DR
CORALVILLE IA 52241

Appeal Number: 06A-UI-07268-DWT
OC: 06/25/06 R: 12
Claimant: Respondent (1)

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:

Heartland Express Inc. of Iowa (employer) appealed a representative's July 13, 2006 decision (reference 01) that concluded Paul J. Houseman (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 3, 2006. The claimant participated in the hearing. Lea Kahrs, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on January 28, 2004. The claimant worked as an over-the-road driver. The claimant's supervisor and fleet manager was Jack Richard. The claimant received a copy of the employer's policy when he started working for the employer. The policy informs employees they can be discharged if they deliver loads late.

On May 31, 2006, Richard talked to the claimant after the claimant delivered a load an hour and 25 minutes late. The claimant explained that either his alarm had not gone off or he did not hear his alarm and overslept. The claimant's best friend had recently passed away. After his friend's death the claimant experienced problems sleeping. Once the claimant went to sleep, he was in a deep sleep and did not wake up easily. This was the first time the claimant had made a late delivery. The employer did not indicate his job was in jeopardy based on one late delivery.

The claimant was home from June 15 through June 20. The evening of June 19, the claimant was with his children and had to wait for their mother to get home. The claimant left his residence around 10:00 p.m. The claimant was loaded and started driving to North Carolina around midnight. After the claimant drove for about two hours, he started falling asleep at the wheel. The claimant pulled over and set his alarm clock for 3:00 a.m. The claimant only had about 90 minutes left before he reached his destination and the delivery was scheduled for a 6:00 a.m. delivery. The claimant did not hear his alarm clock and slept until 6:00 a.m.

As soon as the claimant woke up he sent a message letting the employer know he was on his way to make the delivery. The claimant made the delivery about 90 minutes late. When the claimant arrived, the customer indicated it was lucky the claimant was late because the customer had to move material around to make room for the materials the claimant delivered.

On June 21, the employer discharged the claimant. The employer discharged the claimant pursuant to the employer's policy indicating an employee can be discharged for making a late delivery. The evidence does not indicate if the customer complained about the late delivery or if the employer encountered any other problems when the claimant made the June 20 delivery late.

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 § 96.5-2-a. 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).

While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act. 871 IAC 24.32(8).

The employer established business reasons for discharging the claimant. The claimant did not intentionally or even substantially disregard the employer's interests. The facts indicate the claimant's job was not in jeopardy prior to June 20. The first time the employer talked to the claimant about a late delivery was May 31, 2006. Even though the employer talked to the claimant about the May 31 late delivery, the employer did not warn the claimant that his job was in jeopardy if he ever made a late delivery again.

On June 20 when the claimant left to deliver a load in North Carolina, he believed he was capable of driving to North Carolina. The claimant left his home in plenty of time to make a 6:00 a.m. delivery. When the claimant started falling asleep while driving, he made a responsible decision to pull off the road and take a short nap. The claimant set his alarm for one hour so he still had plenty of time to make the delivery on time. The claimant did not plan or intend to oversleep, but did. After the claimant woke up, he notified the employer that he was on his way. The facts do not establish what if any harm the employer experienced as a result of the claimant's June 20 late delivery. The facts do not establish that the claimant intentionally and substantially disregarded the employer's interest. Therefore, the claimant did not commit work-connected misconduct. As of June 25, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's July 13, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of June 25, 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/cs