

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EUGENE N BELL**  
Claimant

**APPEAL NO. 06A-UI-10745-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WENGER TRUCK LINES INC**  
Employer

**OC: 10/08/06 R: 12  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Eugene Bell, filed an appeal from a decision dated October 31, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on November 21, 2006. The claimant participated on his own behalf. The employer, Wenger Truck Lines, did not provide a telephone number where a representative could be contacted and did not participate.

**ISSUE:**

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

**FINDINGS OF FACT:**

Eugene Bell was employed by Wenger Truck Lines from October 2005 until August 28, 2006. He was a full-time over the road truck driver. During the course of his employment he had “two or three” parking lot accidents where he damaged other trucks parked next to him. The last incident was in June or July 2006 and after he reported that accident to Safety Manager Keith Eastland, he was counseled about the number of accidents he had had. Mr. Eastland told him he could be discharged if he was involved in any other accidents.

On August 18, 2006, Mr. Bell was involved in an accident in Connecticut. He cut a right turn too short and damaged a light pole. He was charged with an improper right-hand turn and reported the accident to Mr. Eastland and was told to stay with the truck and return it to Iowa. He was not able to return until August 28, 2006, at which time he was discharged for having too many accidents.

**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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant was involved in approximately four accidents in less than one year. All of the accidents involved collisions with stationary objects and resulted in property damage. As the truck was in the claimant's sole control during each of these accidents they were solely his responsibility. The employer has the right to expect its employees to perform their jobs in a safe manner and to act prudently to preserve its assets. Mr. Bell failed to perform his job duties prudently and safely and this is conduct not in the best interests of the employer. He is disqualified.

**DECISION:**

The representative's decision of October 31, 2006, reference 01, is affirmed. Eugene Bell is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

---

Bonny G. Hendricksmeier  
Administrative Law Judge

---

Decision Dated and Mailed

bgh/cs