

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIE J JOHNSON
Claimant

APPEAL NO. 10A-UI-02449-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

**Original Claim: 01/24/10
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Willie Johnson, filed an appeal from a decision dated February 11, 2010, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 6, 2010. The claimant participated on his own behalf and was represented by Dan Luginbill. The employer, Heartland Express, participated by Human Resources Generalist Lea Peters and Operations Manager John Clark. Exhibit One was admitted into the record.

ISSUE:

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

FINDINGS OF FACT:

Willie Johnson was employed by Heartland Express from January 30, 2008 until January 23, 2010 as a full-time over-the-road trucker. He received the employer's policies and procedures at the time of hire. These policies notify the employees they would be required, from time to time, to pick up and deliver loads outside of their usual regions, after which they would be returned as soon as possible. The contract further stated the driver would be required to accept a load unless it was not legal, such as if they were out of hours under Department of Transportation regulations.

On January 21, 2010, the claimant was sent a Qual-Comm message in his truck to notify him he should pick up a load in Virginia and deliver it to Pennsylvania. He refused and when asked to supply a reason he said, "Not in my region." That was the only reason given at that time. Later, he informed Terminal Manager Dan Dietter he thought the weather was too bad to safely drive.

The company does not require drivers to operate the trucks when the roads are icy and they may pull over at any safe location at the earliest opportunity and inform dispatch of the situation. Mr. Dietter told the claimant to drop his current load and return to the terminal. He returned on January 23, 2010, at which time Operations Manager John Clark told him he was fired for refusing the load.

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's only documented response to the dispatch was the Qual-Comm message refusing the load because the delivery was outside of his region. If the weather had been his primary concern, he would have initially communicated that, but he did not. But, there is no firm evidence the weather in the pick-up, travel, and delivery area was so bad as to prohibit safe travel. The claimant failed to present any documentation regarding the conditions or that any portion of the roads he would be traveling would be closed.

The record establishes the claimant refused the load because he did not want to travel outside of his region. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of February 11, 2010, reference 02, is affirmed. Willie Johnson 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/kjw