

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAREN E HATCHER
Claimant

HEARTLAND EXPRESS INC OF IOWA
Employer

APPEAL 20A-UI-00185-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/08/19
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed a timely appeal from the December 26, 2019 (reference 01) unemployment insurance decision that denied benefits based upon her discharge from employment. The parties were properly notified of the hearing. A telephone hearing was held on February 3, 2020. The claimant, Karen E. Hatcher, participated personally. The employer, Heartland Express Inc. of Iowa, participated through witness Lea Peters.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time over-the-road truck driver from February 22, 2019 until November 25, 2019. Claimant's job duties included delivering loads to customers. Her work schedule varied.

On November 18, 2019, claimant was traveling in Ohio on Interstate 70. There was another semi-truck in front of her in the right lane. She had come out of a construction zone and was speeding up. She was under the speed limit. She attempted to merge into the center lane but was unable to do so. Traffic in the right lane came to an abrupt stop due to another semi-truck stopping in the middle of the lane ahead of her. Claimant attempted to stop and when she realized she would be unable to do so, she merged into the center lane to avoid a head on collision with the semi-truck in front of her. The passenger side of her truck collided with the semi-truck in front of her, causing damage to the vehicles. Claimant was initially cited but the charges were dismissed. The employer determined that the accident was preventable and discharged the claimant on November 25, 2019. She had no prior discipline during the course of her employment. Claimant was not following too close to the semi-truck in front of her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.32(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).

Iowa Admin. Code r. 871-24.32(4) provides:

Report required. The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

The employer has the burden of proof in establishing disqualifying job misconduct. Iowa Code § 96.6(2); *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether

the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988). The misconduct must be "substantial." *Lee v. Employment Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000) (citation omitted). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. *Id.* (citation omitted). Mere negligence is not sufficient. *Id.* at 666.

When the conduct is based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Further, poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988). The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated 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." *Greenwell v. Emp't Appeal Bd.*, 879 N.W.2d 222, 228 (Iowa Ct.App. 2016)(citing Iowa Admin. Code r. 871-24.32(1)a).

There was no credible evidence presented that the claimant's actions amounted to a deliberate act or omission which constituted a material breach of her duties and obligations as an employee. Further, while claimant was negligent in colliding with the semi-truck in front of her, these actions did not rise to the level of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. The employer has failed to meet its burden of proof in establishing disqualifying job-related misconduct. As such, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The December 26, 2019 (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. The benefits claimed and withheld shall be paid, provided she is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/scn