

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON LOUCKS
Claimant

APPEAL NO: 06A-UI-09495-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORTHWEST AIRLINES INC
Employer

**OC: 08-13-06 R: 02
Claimant: Appellant (2)**

Section 96 5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 21, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 10, 2006. The claimant participated in the hearing. Roger Primrose, Customer Service Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time customer service agent for Northwest Airlines from April 7, 1997 to August 14, 2006. On July 31, 2006, the claimant completed two load control worksheets which placed the baggage from a flight to Detroit on the flight to Memphis and vice-versa. In doing so the claimant also incorrectly entered quantity data into the Worldflight system, creating a safety hazard because the weight of the luggage for each aircraft was recorded inaccurately. On January 23, 2006, the claimant received a decision making leave day (DMLD) with pay after an incident on January 14, 2006, when he bumped a lever on the tug and the ground power unit cord pulled away from the aircraft causing damage and costly repairs. On February 3, 2006, the employer reviewed the DMLD with the claimant and gave him a memo stating that any further performance errors in the next 18 months would result in immediate discharge. On May 31, 2006, the claimant was coached about his attendance after two sick days, two tardes and failing to clock in three times since his DMLD. The employer terminated the claimant's employment August 14, 2006, because of attendance and work performance related to the July 31, 2006, incident.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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 employer has the burden of proving disqualifying misconduct. 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 substantial and 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). The claimant relied on information from other employees and was not aware the wrong bags were being loaded July 31, 2006. While he was responsible for the information he provided on the Load Control Worksheets, the evidence does not indicate that his errors July 31 or January 14, 2006, were made willfully or intentionally. Consequently, the administrative law judge concludes that the claimant's actions do not rise to the level of disqualifying job misconduct as defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The September 21, 2006, reference 01, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs