

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JEREMIAH STEELE**

Claimant

**APPEAL 18A-UI-02426-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**

Employer

**OC: 01/21/18**

**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 12, 2018, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was discharged for failure to follow instructions. The parties were properly notified of the hearing. A telephone hearing was held on March 20, 2018. The claimant, Jeremiah Steele, participated and was represented by John Graupmann, Paralegal at Iowa Legal Aid. The employer, Heartland Express Inc. of Iowa, participated through Lea Peters, HR Generalist. Claimant's Exhibits A through G and Employer's Exhibit 1 were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

**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 full-time, most recently as an over-the-road driver, from July 1, 2016, until November 7, 2017, when he was discharged. Claimant last reported to work on or about October 27, 2017. Several days before claimant last reported, supervisor Jeff Hare contacted claimant and asked him for a doctor's note relating to a load he refused to take on September 1, 2017. Claimant provided the employer with a doctor's note. (Exhibit A) Once the employer received this doctor's note, claimant's employment was placed on hold. (Exhibit B) Claimant reached out to the employer, either to Hare or to the Safety Department, frequently while his employment was on hold to try and return to work. On October 31, Hare sent claimant a message stating his file was being reviewed. (Exhibit C).

On November 7, Hare told claimant to contact someone named Don, who claimant believes is a Vice President of the company. Don told claimant he was expected to be available at all hours to work for the employer. (Exhibit E) Don then told claimant that he needed to talk to Hare. When claimant spoke with Hare, Hare told him that he was being suspended with qualification. Claimant replied, "Basically at this point I'm terminated. I mean you can use legal terms but this is constructive discharge." Hare replied, "Right." Claimant notified Hare that mechanics had

come out and turned off his truck, and Hare indicated he was aware of this. Hare asked claimant to clean all of his items out of the truck, and he offered to serve as a reference for claimant. Claimant stated several times during the conversation that he believed he was being discharged, and Hare did not dispute this. Claimant never returned to work.

On December 15, 2017, the employer sent claimant a letter via certified mail. In this letter, the employer requested that claimant let the employer know what accommodations he believed he needed in order to return to work. (Exhibit 1) Peters, the author of the letter, asked claimant to return some enclosed paperwork by January 5, 2018. Claimant did not receive this letter until mid-January 2018. By that point, Peters believed that claimant had quit because he did not return the paperwork as requested.

### **REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code § 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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(9) provides:

(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds claimant provided credible testimony regarding the end of his employment.

The evidence in the record establishes that claimant was separated from his employment on November 7, 2017. It appears this separation was based on a doctor's note that claimant was asked to provide the employer regarding an incident that happened two months prior. There is no indication that claimant was refusing to work in October or November 2017, and the employer has not alleged claimant engaged in any disqualifying misconduct that justified his indefinite suspension. Claimant did not refuse to provide additional information to the employer regarding the doctor's note; prior to his suspension he was not asked for any clarifying information. The employer has failed to establish that claimant was separated due to disqualifying, job-related misconduct. Benefits are allowed, provided claimant is otherwise eligible.

**DECISION:**

The February 12, 2018, (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/scn