

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM L ROBINSON
Claimant

APPEAL NO: 11A-UI-12606-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 08/14/11
Claimant: Appellant (2/R)

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 16, 2011 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant did not respond to the hearing notice or participate in the hearing. Lea Peters, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge finds the reasons for the claimant's employment separation does not disqualify him from receiving benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits, or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in June 2002. He worked as a full-time over-the-road driver. After the claimant became ill, the employer granted him a medical leave of absence under the Family Medical Leave Act. The claimant began the leave of absence on May 12, 2011. The claimant's leave of absence ended on August 4, 2011.

The claimant's physician had not released him to return to work on August 4. The employer then gave the claimant an additional two weeks of leave. On August 19, the employer contacted the claimant and learned he still had not been released to work by his physician. As of August 19, the claimant did not know when he would be released to work.

The claimant's employment ended on August 19, when he still had not been released to work. The employer's policy considers an employee to have resigned when he is unable to return to work at the end of a designated leave.

The claimant established a claim for benefits during the week of August 14, 2011.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The facts do not establish that the claimant intended to quit his employment. He did not voluntarily quit his employment. Instead, the employer ended the employment relationship because the claimant had not been released to work when his leave of absence ended. For unemployment insurance purposes, the employer initiated the employment separation or discharged the claimant.

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *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 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established justifiable business reasons for ending the claimant's employment. The law specifically states that inability or incapacity does not constitute work-connected misconduct. When the claimant's physician had not released him to work by August 19, 2011, the claimant was unable to work. The evidence does not establish that he committed work-connected misconduct. Therefore, as of August 14, the claimant is qualified to receive benefits based on the reason for his employment separation.

Since the claimant's employment ended because his physician had not released him to work, the issue of whether the claimant is able to and available for work will be remanded to the Claims Section to determine.

DECISION:

The representative's September 16, 2011 determination (reference 01) is reversed. The claimant did not voluntarily quit his employment. The employer ended the claimant's employment when he was unable to return to work when his leave of absence ended. The claimant did not commit work-connected misconduct. As of August 14, 2011, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge. The issue of whether the claimant is able to and

available for work as of August 14 is **Remanded** to the Claims Section to determine when his physician released him to work. If the claimant had any restrictions when he was released, the Claims Section must also determine if the claimant is eligible to receive benefits with any restrictions.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw