

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

JUSTIN C HILTS  
APT 8  
1307 – 1<sup>ST</sup> ST  
WEBSTER CITY IA 50595

DONALD L DECKER  
PO BOX 915  
FT DODGE IA 50501

DECKER TRUCK LINE INC  
PO BOX 915  
FT DODGE IA 50501

Appeal Number: 06A-UI-01347-HT  
OC: 12/11/05 R: 01  
Claimant: Appellant (1-R)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Justin Hilts, filed an appeal from a decision dated January 26, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on February 21, 2006. The claimant participated on his own behalf. The employer, Decker Truck Line, Inc., participated by Director of Human Resources Judy Larson, Director of Training Kevin Barker and Director of Fleet Maintenance Jeff Gallogly. The employer was represented by Attorney John Fatino. Exhibit One was admitted into the record.

## FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Justin Hilts was employed by Decker Truck Line, Inc., from October 5 until December 15, 2005. He was a full-time over-the-road truck driver. At the start of his employment the claimant was given training by Director of Training Kevin Barker. The company policies as well as the federal department of transportation require a driver to inspect the tractor and trailer after every stop, no matter how brief or how frequent.

On December 8, 2005, the claimant had stopped for a brief "catnap" on an exit ramp by Manchester, Iowa, but did not do an inspection when he started on the road again. A few miles down the highway a fire started in the rear wheels of the trailer. He continued to drive for a few miles so he could ascertain where he was in order to give directions to the fire department. He did notify the security people at Decker Truck Lines, Inc., and they summoned the fire department.

Director of Safety Leo Shimon interviewed the claimant after the incident at which time Mr. Hilts admitted he had not done an inspection after he took the nap and got back on the road. Director of Fleet Maintenance Jeff Gallogly inspected the vehicle after the fire. It was determined there was a flat tire on the trailer and the friction from it caused the fire. Damage was assessed at \$18,000.00 to the trailer and \$40,000.00 to the tractor, but the cargo was undamaged. After the inspection report was submitted to Mr. Shimon and Director of Human Resources Judy Larson the decision was made to discharge the claimant.

The initial decision in this case listed the employer as Donald L Decker with an employer account number of 222136. This is incorrect. The claimant's employer is Decker Truck Lines, Inc., with an account number of 024178.

## REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes affirmed.

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 claimant was aware of the requirement to inspect the vehicle after every stop. The importance of this requirement is made very evident by the circumstances of this case. His failure to do the inspection meant that the flat tire was not discovered and the fire began, which essentially destroyed tractor and trailer. The claimant was negligent in not obeying company rules and applicable laws and caused substantial financial harm to the employer, and could have caused property and personal injury to the claimant and others. This is conduct not in the best interests of the employer and the claimant is disqualified.

#### DECISION:

The representative's decision of January 26, 2006, reference 01, is affirmed. Justin Hilts is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

The employer account number in this case should be changed in the records of Iowa Workforce Development. The claimant's employer was Decker Truck Lines, Inc., with an account number of 024178

bgh/s