

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD B HILL
Claimant

APPEAL NO. 08A-UI-07342-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 07/13/08 R: 12
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 4, 2008, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on August 27, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Leah Peters participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a truck driver for the employer from September 7, 2007, to July 3, 2008. The claimant received a verbal warning on February 5, 2008, for delivering a load late and was informed that he would be discharged if it happened again.

On June 28, 2008, the claimant was given an assignment to deliver a load to Georgia by June 30, at 2:00 p.m. He was due to be routed home for the weekend of June 28 and understood that he was required to be off for 34 hours because he had been driving for a week straight. He told his fleet manager about his hours and that he would not be able to make the delivery time. He understand from the fleet manager that he would have some leeway on the delivery time.

The claimant arrived at his home at 8:30 p.m. on June 28. He started on his trip to Georgia on June 30 at 2:00 a.m. and did not deliver the load until July 1 at 6:30 a.m.

On July 3, 2008, the employer discharged the claimant for having another late load.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

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 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).

No willful and substantial misconduct has been proven in this case. The claimant's testimony that he was required to take a 34-hour restart before driving again and had informed his fleet manager that he could not make the delivery time is very credible.

DECISION:

The unemployment insurance decision dated August 4, 2008, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css