

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THEODORE D WRIGHT
Claimant

APPEAL NO: 10A-UI-07061-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 04/11/10
Claimant: Appellant (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's May 5, 2010 decision (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. A telephone hearing was held on July 1, 2010. The claimant participated in the hearing. Lea Peters, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on December 16, 2005. The claimant worked as a full-time over-the-road truck driver. The claimant understood that under the employer's policy a driver could be discharged if he was involved in a preventable accident that resulted in damage of \$4,500 or more.

In June 2009 the claimant was involved in a minor accident when he backed into another trailer. There was minimal damage. The June 2009 incident did not prevent the claimant from receiving a safety bonus for safe driving in 2009. The safety bonus was based on events as of December 11, 2009.

On December 15, 2009, the claimant was driving on an Interstate. He was in the process of changing to the left lane. The claimant was going around 64 miles an hour when a tire suddenly rolled off a truck ahead of him. Two vehicles in front of the claimant were able to miss the tire that rolled onto the interstate by stopping suddenly. The claimant was unable to stop his truck. He rear ended one vehicle. This vehicle then rear ended the vehicle immediately in front of it. As of the date of the hearing, the employer has paid out over \$71,000 in damages that were caused by this accident.

As a result of the December 15 accident, the employer immediately suspended the claimant. After investigating the incident, the employer concluded the accident was preventable. Pursuant to the employer's policy, the employer discharged the claimant because he was involved in a preventable accident which resulted in much more than \$4,500 damage.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. 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).

Based on its policy, the employer established justifiable business reasons for discharging the claimant. The facts, however, establish that with the exception of the December 15, 2009 accident, the claimant had a safe driving record and his job was not in jeopardy before this accident. The claimant may have been driving too fast or inattentive. But the facts indicate the accident occurred because a tire fell off a truck that was ahead of the claimant on the Interstate. Two vehicles in front of the claimant stopped suddenly to avoid hitting the tire that fell off a truck. Even if you consider the facts that would be most favorable to the employer, the claimant did not act recklessly or was negligent or careless to the extent that he committed work-connected misconduct. Instead, he was unable to stop his truck when the vehicle in front of him suddenly stopped. An accident occurred, but the claimant did not commit work-connected misconduct. As of April 11, 2010, the claimant is qualified to receive benefits.

DECISION:

The representative's May 5, 2010 decision (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of April 11, 2010, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs