

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER L BECTHOLD
Claimant

APPEAL 15A-UI-13090-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RYDER INTEGRATED LOGISTICS INC
Employer

**OC: 11/01/15
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Christopher Becthold (claimant) filed an appeal from the November 19, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination Ryder Integrated Logistics, Inc. (employer) discharged him for violation of a known company policy. The parties were properly notified about the hearing. A telephone hearing was held on December 15, 2015. The claimant participated on his own behalf. The employer participated through Human Resources Coordinator Rita Hosea.

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: The claimant was employed full-time as a driver beginning on April 10, 2014, and was separated from employment on November 3, 2015, when he was discharged. The employer has a policy that three Risk Associated Behavior (RAB) log violations, or safety violations, in a two-year period will result in discharge. RAB log violations would include preventable accidents and property damage. The claimant had his first RAB log violation on October 23, 2014 and was given a verbal warning. On June 26, 2015, the claimant received a written warning for his second RAB log violation.

On October 23, 2015, the claimant was dispatched to take a truck off the property of one of the employer's customers. However, he did not have enough time to remove the truck before the employer's personnel who worked the gate left for the evening. The security guard at the gate, who did not work for the employer, would not let the claimant leave with the trailer. The claimant was required to drive the truck and trailer in reverse in the dark and rain to turn it around in order to return it to the staging area. In the process of reversing the truck, the claimant hit a stop sign and his truck was damaged. He immediately notified the employer and was discharged for his third RAB log violation in a two-year period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct. Benefits are denied.

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).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990).

Professional drivers, particularly those that drive large and/or heavy vehicles, reasonably have a higher standard of care required in the performance of their job duties to ensure public safety. That duty is evident by special licensing requirements. The employer is charged under both federal and state law with protecting the safety of its employees and the general public by ensuring employees follow safety laws while operating a company vehicle. It has presented substantial and credible evidence that claimant was acting against the best interests of the employer and the safety of the general public when he had three safety violations in a two-year period. The claimant was given multiple warnings related to this conduct and the employer has a policy of which the claimant was aware. The claimant's argument that the employer placed him in the difficult situation due to poor planning with dispatching and staff is not persuasive. Regardless of how he arrived in any given situation, the claimant has an obligation to safely operate the vehicle he is driving. The claimant's repeated failure to safely operate his vehicle after having been warned is evidence of negligence or carelessness to such a degree of recurrence as to rise to the level of disqualifying job-related misconduct. Benefits are denied.

DECISION:

The November 19, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/pjs