

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAY A RANDALL
Claimant

APPEAL NO. 13A-UI-07557-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SUPERIOR CARTAGE INC
Employer

OC: 06/02/13
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Ray Randall, filed an appeal from a decision dated June 19, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 31, 2013. The claimant participated on his own behalf. The employer, Superior Cartage, participated by Executive Vice President Mike Sanford.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Ray Randall was employed by Superior Cartage from June 28, 2010 until May 29, 2013 as a full-time delivery driver. During the course of his employment he had five preventable accidents, four of which involved striking a stationary vehicle or building. He was issued disciplinary action and finally put on probation for six months for an accident on October 1, 2012.

On May 23, 2013, he changed lanes on a public street and struck a passenger vehicle. He was cited for the accident with a moving violation. The employer's safety review board determined it was a preventable accident, along with the others, and Mr. Randall was discharged on May 29, 2013, by Mike Murray.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant had five accidents in less than three years, most of them involving striking stationary objects when he was in sole control of the company vehicle. The last incident was a moving violation for which he was cited by law enforcement. The employer has the right to expect its drivers to operate its vehicles in a safe and prudent manner to avoid damages and liability. The claimant's conduct was a reckless disregard for the best interests of the employer and negligence to such a degree as to constitute willful misconduct. The claimant is disqualified.

DECISION:

The representative's decision of June 19, 2013, reference 01, is affirmed. Ray Randall is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs

