

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LYLE C MOLTON**

Claimant

**APPEAL NO. 09A-UI-06395-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**

Employer

**Original Claim: 03/01/09  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Heartland Express Inc. of Iowa (employer) appealed a representative's April 13, 2009 decision (reference 01) that concluded Lyle C. Molton (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for non-disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 21, 2009. The claimant participated in the hearing. Dave Dalmasso, a human resource representative, 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 claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on September 27, 2006. The claimant worked as a full-time driver and received a salary of \$800.00 a week. The claimant was also home 1.5 days a week. D.D., the fleet manager, supervised the claimant.

On March 2, 2009, the claimant's new dispatcher asked him to make a delivery the claimant believed he could not legally make. The claimant made the delivery before deadline, but could not pick up another load. The claimant asked to be routed to the terminal so he could talk to D.D. about this situation and the problems he had with his new dispatcher.

Before the claimant talked to D.D., M.W., another fleet manager, told the claimant he was not productive and would have to work as a regional driver. As a regional driver, the claimant would be paid so many cents per mile instead of the salary he had been receiving. The claimant told M.W. he would have to talk to D.D. about this.

On March 3 when the claimant talked to D.D., he told the claimant he was not productive after the claimant reported that his dispatcher asked him to drive illegally. When D.D. told the

claimant he was not being productive, the claimant told the employer that he did not get along with his new dispatcher. D.D. appeared angry and did not appear to listen or attempt to resolve the claimant's concerns. Instead, D.D. told the claimant to clean out his truck. D.D. did not ask the claimant if he would work as a regional driver, which meant the claimant would not receive a salary but instead 43 cents for every mile he drove. The claimant would have worked as a regional driver, if the employer had given him that opportunity. The claimant did not work for the employer after March 3, 2009. The paperwork the claimant received from the employer on March 3 indicates he had been terminated.

## **REASONING AND CONCLUSIONS OF LAW:**

In this case, the claimant asserted he had been discharged and the employer contended the claimant voluntarily resigned his employment. The paperwork the claimant received after he cleaned out his truck indicated he had been terminated. The employer's copy of the same form is different than the copy the claimant sent in and indicates the claimant quit. While copies of documents can be altered, the claimant's testimony must be given more weight as to what happened on March 3 because the employer's witness was not present during the March 3 discussion and he was not present when the employer completed the paperwork. Based on a preponderance of the credible evidence, the claimant did not quit his employment. Instead, the employer discharged the claimant on March 3, 2009.

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 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).

The facts do not establish that the claimant committed work-connected misconduct. The claimant's confrontation with D.D. was an isolated incident. Without D.D. testifying, the claimant's version of what happened March 3 must be given more weight than the employer's reliance on unsupported hearsay information. The facts do not establish the claimant committed work-connected misconduct. Therefore, as of March 1, 2009, the claimant is qualified to receive benefits.

**DECISION:**

The representative's April 13, 2009 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of March 1, 2009, 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw