

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY N WARRICK
Claimant

APPEAL NO. 12A-UI-08695-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 06/10/12
Claimant: Respondent (2)

Iowa Admin. Code r. 871-23.43(9)a – Combined Wage Claim Relief from Charges

STATEMENT OF THE CASE:

The employer filed an appeal from the July 9, 2012 (reference 01) decision that did not relieve employer's account of benefit charges on the combined wage claim. After due notice was issued, a hearing was held by telephone conference call on August 14, 2012. Claimant participated. Employer participated through human resources manager Greg Stewart.

ISSUE:

Can the Iowa employer can be relieved of benefit charges on the combined wage claim?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an over-the-road driver and was separated from employment on December 22, 2011. He had a late delivery for a Fed Ex load on December 19 because he had overslept. On September 14, 2011 he was warned by a terminal manager about four other late deliveries caused by oversleeping.

Claimant filed a combined wage claim in New Jersey but earned wages from this Iowa employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged for job related misconduct and the employer is relieved of benefit charges.

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.

Claimant's late delivery due to oversleeping after having been warned is evidence of carelessness to such a degree of recurrence as to rise to the level of disqualifying job related misconduct.

871 IAC 23.43(9) provides in part:

(9) Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20, will be liable for charges for benefits paid by the out-of-state paying state, but no reimbursement so payable shall be charged against a contributory employer's account for the purpose of section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and that such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim....

Since employer would be relieved of charges based upon this fact scenario in an Iowa claim, it shall be relieved of charges on this combined wage claim. Claimant's qualification and eligibility shall be determined by the state in which the claim was filed.

DECISION:

The July 9, 2012 (reference 01) decision is reversed. The account of the employer (account number 028930) shall not be charged. Claimant's qualification and eligibility shall be determined by the state in which the claim was filed.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs