

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM K WILLIAMS**  
Claimant

**APPEAL NO. 07A-UI-06647-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**UNITED PARCEL SERVICE**  
Employer

**OC: 06/03/07 R: 04  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

United Parcel Service (UPS) filed an appeal from a representative's decision dated June 20, 2007, reference 01, which held that no disqualification would be imposed regarding William Williams' separation from employment. After due notice was issued, a hearing was held by telephone on July 23, 2007. Mr. Williams participated personally. The employer participated by Jeremy Spillman, Supervisor.

**ISSUE:**

At issue in this matter is whether Mr. Williams was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Williams was employed by UPS from April 24, 1981 until July 11, 2007 as a full-time driver. He was discharged because he failed to timely report damage to his vehicle on May 29, 2007, his last day at work.

When Mr. Williams returned to the terminal on May 29, Tonya Stiles, a supervisor noted damage to his vehicle. The mirrors on the driver's side were broken and there was a scratch on the passenger side. A bumper spring was broken and there was a paint chip on the exterior. The glass covering the speedometer was off but not broken. UPS drivers are required to immediately report any damage that occurs with the vehicle. Mr. Williams had not reported any damage to the vehicle during the course of his workday on May 29.

Mr. Williams worked later than usual on May 29. Because of this factor, he was not able to take prescribed medication timely. The failure to have his medication timely caused him to be disoriented and dizzy. It also caused memory loss. Ms. Stiles noted that he appeared disoriented on May 29 and had difficulty punching in numbers on the "diad" used in his work. He was offered a ride home but declined. He was involved in an auto accident on his way home that evening. Mr. Williams had never failed to report damage to his vehicle on any prior occasions. The above matter was the sole reason for his discharge.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Williams was discharged because he failed to report damage to his vehicle on May 29, 2007. The term "misconduct" connotes volition. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979). The administrative law judge is of the opinion that Mr. Williams did not deliberately and intentionally fail to report damage to his vehicle as required.

Neither party could indicate where or when the damage to the vehicle occurred. Given the state Mr. Williams was in when he arrived back at the terminal on May 29, as observed by Ms. Stiles, the administrative law judge cannot determine whether he was even aware of the damage to the vehicle. Because of his disorientation, the administrative law judge cannot conclude that he deliberately failed to report damage to the vehicle. Given his length of employment with UPS, the administrative law judge is inclined to conclude that his actions of May 29 were, at most, an isolated, good-faith error in judgment caused by his medical condition. Conduct so characterized is not considered disqualifying misconduct. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons stated herein, benefits are allowed.

**DECISION:**

The representative's decision dated June 20, 2007, reference 01, is hereby affirmed. Mr. Williams was discharged by UPS but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css