

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KENNETH M HILL**  
Claimant

**APPEAL NO. 11A-UI-02622-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**J PETTIECORD INC**  
Employer

**OC: 01/09/11  
Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's February 22, 2011 determination (01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant participated in the hearing. Jerry Hans, the operations manager; Shawn Steward, the shop manager; and Todd Johnson, the shop foreman, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working as a full-time driver for the employer in April 2003. Hans supervised him. The claimant understood that if he was involved in an accident, the employer required him to report the accident. When the claimant was involved in accidents off the work site, he contacted Hans to report the accident.

In a January 3, 2011 employee meeting that the claimant attended, the employer emphasized the importance of reporting any accident that resulted in \$500.00 or more in damage. On January 4, the claimant was operating a skid loader. While pushing some items with the skid loader, the claimant accidentally hit a service truck two times with the skid loader. The service truck incurred some damage. Johnson saw the claimant hit the service truck and went to talk to him. The claimant had not realized he hit the service truck until Johnson talked to him. Even though Johnson was not the claimant's supervisor, the claimant understood that since he knew about the damaged service truck, the claimant did not have to personally contact Hans to report the accident. Hans learned about the accident when he noticed on January 6 that the service truck was in the shop for repairs. Hans understood that Johnson told the claimant to report the accident to Hans. When Hans asked the claimant what had happened and gave him an incident report to complete, the claimant told him how the accident occurred. The claimant does

not remember Hans reminding him on January 6 that he was required to report all of his accidents to Hans.

Sometime on January 6, a tank tipped and popped a hole in the tank. The claimant was responsible for this and called the shop about the tank. The claimant learned the shop had a spare tank that could be put on the truck to replace the damaged tank. Hans learned about the damaged tank the next day, January 7. After the claimant received another incident report for the tank on January 7, he was told or reminded he was supposed to report his accidents to Hans.

When Hans gave the incident reports to the claimant to complete, he did not warn the claimant that his job was in jeopardy. Prior to January 4, 2011, the claimant's job was not in jeopardy. On January 6 and/or 7, Hans reminded the claimant the importance of reporting accidents. It was not until January 7 that the claimant understood he had to report all his accidents to Hans.

After Hans told the owner about the accidents, the employer discharged the claimant on January 7, 2011 for failing to report the January 4 and 6 accidents to Hans.

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

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(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 employer established business reasons for discharging the claimant. Even though the claimant did not report the accidents to Hans, Johnson, the shop foreman, knew about the accidents. The claimant used poor judgment when he did not make a point of contacting Hans on January 4 and 6 to report the accidents. Since the shop foreman knew about the accidents, the claimant did not intentionally violate or substantially disregard the employer's interests. The claimant should have told Hans about the accidents the same day they occurred, but his failure to do so under the facts of the case does not rise to the level of work-connected misconduct. As of January 9, 2011, the claimant is qualified to receive benefits.

**DECISION:**

The representative's February 22, 2011 determination (reference 01) is affirmed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of January 9, 2011, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw