

BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319

DWAYNE R DREDSKE

Claimant,

and

FIRST FLEET INC

Employer.

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HEARING NUMBER: 07B-UI-07465

EMPLOYMENT APPEAL BOARD
DECISION

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-a

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

Elizabeth L. Seiser

John A. Peno

AMG/fnv

DISSENTING OPINION OF MARY ANN SPICER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. Mr. Dredske was employed as an over-the-road tractor-trailer driver for approximately ten years. The employer tried working with Mr. Dredske on several occasions to get him used to the new technology needed for payroll and to get the employer paid for the loads that were delivered. Mr. Dredske refused to accept the Circle of Service and the CD or cassette to learn the Transplace QUALCOMM System needed for billing. (Tr. 31, lines 6– 16) Mr. Dredske was not confident that he could learn the new billing system for which he admitted to the employer. (Tr. 38, lines 3-4) Through the claimant's own admission, he had avoided using a simple version of the QUALCOMM for the last ten years. (Tr. 6– 13).

The employer made multiple attempts to train the claimant by use of visuals as well as one on one instruction. Each time during the two-week period, Mr. Dredske refused to learn. In order for the employer to bill Transplace and for them to pay the drivers, the drivers are required to enter the load information into the QUALCOMM. (Tr. 13, lines 21– 24; Tr. 22, lines 18-25) It should be noted that on June 11, 2007, the employer issued instructions to all drivers on the new billing system with instructions of an offer to obtain additional materials so that could an employee could become familiar with the new process. The claimant went on vacation from June 25 through June 29th and made no attempts to contact the employer before going on leave to learn the new system, (Tr. 14, lines 14– 18; Tr. 18, lines 10– 19; Tr. 19, lines 9-10)

The claimant had been instructed on more than one occasion on what he needed to do to become familiar with the new billing process; yet, on numerous occasions, he refused, stating "I can't do it." (Tr. 41, lines 22– 23) I would consider his behavior to be blatant insubordination, which was not in the employer's best interest of getting all the drivers updated on the new process. Mr. Dredske's repeated refusal over a two-week period to follow a direct order to learn the system evinced a willful and wanton disregard of the employer's interest. See, 871 IAC 24.32(1)"a" see also, Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990). Based on what I conclude to be substantial evidence and the credible testimony of his immediate supervisor, I would reverse the administrative law judge's decision by denying benefits.

Mary Ann Spicer

AMG/fnv