

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY L BUTLER

Claimant

APPEAL NO: 07A-UI-01665-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

**OC: 01/21/07 R: 12
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Gary L. Butler (claimant) appealed a representative's February 8, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Heartland Express Inc. of Iowa (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 5, 2007. The claimant participated in the hearing. Leah Carrs, a human resource generalist, 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 employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on September 9, 2005. The claimant worked as a full-time over-the-road driver. The employer's policy informs drivers they can be discharged if they make late deliveries.

During the claimant's employment, the employer talked to the claimant about making late deliveries. Even though the claimant understood the employer did not want late deliveries when the claimant concluded it was not safe for him to drive because he was tired, he pulled off the road to take a nap before he continued driving.

Before the claimant made a delivery in Gordonsville, Virginia, on January 15 around 5:00 a.m., he knew he had a load to pick up in Richmond, Virginia, that was to be delivered by 7:00 a.m. on January 16 at an Ohio location. The claimant picked up the load in Richmond around 4:45 p.m. As the claimant drove to Ohio he became sleepy and decided he could not safely drive any further without getting some sleep. The claimant pulled off the road and slept for around two hours. When the claimant was close to his designation, he encountered traffic problems. As a result of adverse weather conditions the claimant found himself stuck in traffic

and unable to get anywhere for two to two and a half hours. The claimant did not get to his designation until 10:16 a.m. After the claimant arrived, the shipper was upset because the employer had promised this delivery on January 10 and then on 12 instead of January 16, 2007. When the claimant became caught in the traffic slowdown, he contacted his dispatcher who told him to get to his delivery site as soon as possible.

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 section 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. The facts do not show that the claimant intentionally made a late delivery on January 16, 2007. The claimant notified the employer when he was caught in traffic due to adverse weather conditions. Even though the claimant stopped to take a nap, if he was tired and unable to drive safely his decision to stop and take a nap was reasonable and in the best interests of the employer. Even though the claimant knew the employer wanted deliveries made on time and the employer talked to him about late deliveries in the past, there is no evidence the employer gave the claimant a written warning for making late deliveries. Since the people who made the decision to discharge the claimant did not participate in the hearing, it is not known why the employer discharged the claimant for the January 16, 2007 late delivery and not for prior late deliveries. Under the facts of this case, the claimant did not commit work-connected misconduct. As of January 21, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's February 8, 2007 decision (reference 01) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected

misconduct. As of January 21, 2007, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs