

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARK A BROESDER**  
Claimant

**APPEAL NO. 100-UI-02694-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CORDERMAN TRUCKING INC**  
Employer

**OC: 07/26/09**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated October 16, 2009, reference 04, that concluded the claimant's discharge was not for work-connected misconduct. The case was remanded by the Employment Appeal Board for a new hearing due to the claimant not receiving notice of a previous hearing held on December 3, 2009. A telephone hearing was held on March 25, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Gene Cummings. No one participated in the hearing on behalf of the employer. Exhibit A was admitted into evidence.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked as a truck driver for the employer from August 8, 2009, to September 11, 2009. He was discharged by the employer on September 20, 2009, because the employer believed the claimant was not properly inspecting the trucks and had not handled a mechanical problem with a truck properly. The claimant performed the truck inspections as required. He called the employer about a mechanical problem with the truck and followed the employer's instructions on how to fix the problems. He informed the employer that the truck still did not feel right. He pulled the truck over after he noticed there was smoking coming out from the back end of the truck. He handled the problem to the best of his ability.

The claimant filed a new claim for unemployment insurance benefits with an effective date of July 26, 2009. The employer is not a base period employer on the claim.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. He did not deliberately violate any work rules or instructions, or disregard the employer's interests.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

**DECISION:**

The unemployment insurance decision dated October 16, 2009, reference 04, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs