

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHEN S MAXFIELD**  
Claimant

**APPEAL NO. 14A-UI-05784-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BARR-NUNN TRANSPORTATION INC**  
Employer

**OC: 05/11/14**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Stephen Maxfield (claimant) appealed a representative's June 3, 2014 (reference 01) decision that concluded he was not eligible to receive unemployment insurance benefits because he was discharged from work with Barr-Nunn (employer) for having too many accidents for which the claimant was found at fault. After hearing notices were mailed to the parties' last-known address of record, a telephone hearing was scheduled for June 26, 2014. The claimant participated personally. The employer participated by Dan Inman, Safety Claims Prevention Manager.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 10, 2013 as a full-time truck driver. The claimant signed for receipt of the employer's handbook on January 9, 2013. The claimant was issued a citation on January 6, 2014 for failure to observe a traffic control device. The employer verbally counseled the claimant on January 14, 2014 about the citation. On February 12, 2013 the employer issued the claimant a written warning and 90-day probation for having a preventable accident on February 12, 2013. The employer notified the claimant that further infractions could result in termination from employment.

On March 12, 2014 the claimant was driving the employer's tractor-trailer when he ran off the road and totaled the rig. The claimant suffered head, leg, and rib injuries. He was taken to a hospital. Law enforcement issued him a citation for careless driving. This citation was later dismissed. The employer suffered property damage of \$42,000.00 plus the damage to the totaled tractor-trailer. The claimant was released by the doctor but told the employer he was unable to work. The employer terminated the claimant on April 4, 2014 for having too many accidents.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Dep't of Job Serv., 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Repeated failure to follow an employer's instructions in the performance of duties is misconduct. Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly not following the rules of the road. He was issued a citation in January 2014, a 90-day probation for an accident in February 2014, and had a serious accident in March 2014. The claimant was a liability to the employer. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's June 3, 2014 (reference 01) decision is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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