

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EDWARD A SHUTTLEWORTH**  
Claimant

**APPEAL NO. 10A-UI-16650-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MAX MORGAN MOTOR FREIGHT LLC**  
Employer

**OC: 04/04/10  
Claimant: Appellant (5)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the November 29, 2010 (reference 07) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on January 20, 2011. Claimant participated. Employer participated through CFO and Human Resources Director Clint Feuerbach and General Manager John Phillip. Claimant's Exhibit A was admitted to the record. Employer's Exhibit 1 was admitted to the record.

**ISSUE:**

The issue is whether claimant quit the employment without good cause attributable to the employer or if he was discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as an over-the-road driver from August 26, 2010 and was separated from employment on October 15, 2010. Phillips called claimant to assign a load using truck number 110. Claimant refused unless the truck was detailed. Phillips told him it was clean. Claimant replied, "I'll be the judge of that." Phillips told him he was discharged for having refused a load assignment for the fourth time. He had refused work on September 24 when he was instructed to ride to York, Nebraska, with another driver to pick up truck number 110 and go from there to San Diego. He refused to ride with another driver. The employer would have paid him for that portion of the route and there was room for him to bring his personal equipment and belongings. On September 28 he refused a route from Marshalltown to New London, Wisconsin, in truck number 101 because he only wanted to use truck number 110. All of employer's trucks are road-worthy. He told the employer on October 12 that he would not take a route to Portland, Oregon, because he was fixing lights at his house and was not available for work that day. An idle truck costs employer approximately \$800 per day in lost revenue.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related 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.

871 IAC 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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

Claimant's repeated refusal to take loads without reasonable excuse is evidence of disqualifying job-related misconduct. Benefits are denied.

**DECISION:**

The November 29, 2010 (reference 07) decision is modified without change in effect. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw