

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDWARD L MEGGERS
Claimant

APPEAL NO. 09A-UI-01956-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIRST FLEET INC
Employer

**OC: 01/04/09 R: 04
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 6, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on February 26, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, John Pieters. Matt Childs participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a truck driver for the employer from May 20, 2004, to December 31, 2008. The claimant was informed and understood that under the employer's work rules, drivers were required to notify their terminal manager as soon as possible in the event a driver was involved in an accident.

On December 30, 2008, the claimant was attempting to couple his truck with a trailer but it was 11 degrees below zero and he was not able to move the trailer while it was coupled because his truck would stall any time he attempted to move the trailer that was frozen to the ground. He used the fifth-wheel apparatus to dislodge the trailer from where it was frozen without coupling the trailer to the truck's fifth wheel. He moved the trailer out in that fashion so he could couple the truck to the trailer properly. No damage was done to either the truck or trailer through the claimant's action. Another driver reported to the terminal manager, Matt Childs, that the trailer had dropped on the truck while the claimant had pulled the trailer out without it being coupled to the truck. The claimant never notified management about what had happened because he was not involved in an accident. He had never been informed that he was required to report the fact that he had pulled a trailer without it being securely coupled.

Childs had intended to put the claimant on probation for driver's log violations. When Childs was told about the incident on December 30, 2008, he decided that the claimant would be

discharged for failing to report an accident and for logbook violations. The claimant filled out his logs to the best of his ability and never deliberately misreported information on his logs.

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 § 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).

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 substantial and 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).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. No willful and substantial misconduct has been proven in this case. I do not believe the situation involving the trailer on December 30 was a reportable accident. Childs testified that a coupling incident was used as an example of a reportable event during training conducted in December 2008, but the evidence fails to show the claimant attended the training or was aware the employer expected him to report incidents when he had problems coupling a trailer. The evidence also fails to show the claimant deliberately misreported information in his driver's logs.

DECISION:

The unemployment insurance decision dated February 6, 2009, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css