

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JEFFREY H PINN
27 PINECLIFF DR
ROCHESTER NY 14609

HEARTLAND EXPRESS INC OF IOWA
2777 HEARTLAND DR
CORALVILLE IA 52241

Appeal Number: 05A-UI-06610-DWT
OC: 05/28/05 R: 12
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Heartland Express Inc. of Iowa (employer) appealed a representative's June 16, 2005 decision (reference 02) that concluded Jeffrey H. Pinn (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 12, 2005. The claimant participated in the hearing. Lea Kahrs, 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 March 5, 2003. He worked as a full-time truck driver. The claimant started as an over-the-road driver but prior to his employment separation the claimant drove a designated area. At the time of hire, the claimant received a copy of the employer's policy. The policy informed employees that unauthorized use of the employer's equipment could result in an employee's discharge.

On May 16, 2005, the employer assigned the claimant to take a load to a Ford plant in Avalon, Ohio. On his way to the plant, the claimant became ill and stopped at a rest stop for a period of time. The claimant informed the employer he was ill and had to stop for a while. When the claimant arrived at the Ford plant, no one was working. The claimant was still ill and needed to desperately use a restroom. The claimant could not find any restrooms at the Ford plant that he could use. The claimant again contacted the employer and explained the problems he had at the Ford plant and that he was ill. The claimant had diarrhea. When the claimant was finally able to drop this load, the employer asked him to pick up an empty trailer, but there were no empty trailers to be picked up. The employer then told the claimant he had to wait 15 to 17 hours until another dispatcher came to work before he could be assigned anything else.

The claimant needed to clean himself and obtain some clean clothes because the clothes he had brought with him were soiled. After the employer could not find any load to assign the claimant, he tried to find a rest stop or a truck stop where he could get cleaned up. When the claimant was unable to find anything on the interstate, he went home to clean up.

The employer contacted the claimant at his home on May 17 and assigned him to a load. The claimant took this load and dropped it on May 19, 2005. After the claimant completed this last assignment, the employer discharged him for driving the employer's equipment to his home in Rochester, New York on May 16, 2005, without authorization or permission.

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 § 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 claimant was ill on May 16 but remained with his load after he arrived at a closed Ford plant. Only after the employer's dispatcher could not find another load to assign to the claimant and told him he had to wait 15 to 17 hours for a new dispatcher, the claimant started looking for a facility to clean up. When the claimant could not find a free facility, he went home.

The claimant should not have gone home without the employer's authorization, but the employer's dispatcher was not reasonable when he told the claimant he had to wait 15 to 17 hours for another dispatcher to assign him to a load when the claimant was ill. There is no evidence the claimant had previously driven the employer's vehicle without authorization. The claimant used poor judgment on May 16. He did not intentionally or substantially disregard the employer's interests when he went home for the first time without authorization. The claimant did not commit work-connected misconduct. As of May 29, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's June 16, 2005 decision (reference 02) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of May 29, 2005, 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.

dlw/sc