

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL E PARSONS
Claimant

APPEAL NO. 09A-UI-05800-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 03/15/09
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Michael Parsons filed an appeal from a representative's decision dated April 2, 2009, reference 01, which denied benefits based on his separation from Heartland Express, Inc. of Iowa (Heartland). After due notice was issued, a hearing was held by telephone on May 11, 2009. Mr. Parsons participated personally. The employer participated by Dave Dalmasso, Human Resources Representative, and Tom Kasenberg, Director of Operations.

ISSUE:

At issue in this matter is whether Mr. Parsons was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Parsons began working for Heartland Express, Inc. of Iowa on January 11, 2008 as a full-time regional driver. On the morning of March 12, 2009, he was in contact with the employer's night dispatcher concerning problems he was having with the vehicle. He was in Ohio at the time waiting to pick up his next load but there was a problem with the sliders under the trailer. Mr. Parsons was upset because of the delay and told the dispatcher he was going to quit. He threatened to bring the empty trailer back to the Richmond, Virginia, terminal from which he worked. The night dispatcher left an email for management concerning his conversation with Mr. Parsons.

Mr. Parsons was at the Richmond terminal on the afternoon of March 13. It was "Driver Appreciation Day" and there were other Heartland drivers as well as Heartland customers present for the event. Mr. Kasenberg, director of operations, was on his way to the drivers' lounge upstairs when he overheard an individual speaking loudly and making disparaging remarks about Heartland. He was making comments about how he hated Heartland and his fleet manager. He was using profanity during his comments. He also stated that he would be quitting his job with Heartland. Mr. Kasenberg did not know who the individual was when he entered the lounge and introduced himself and gave his position within the company. The individual he had overheard was Mr. Parsons.

Mr. Kasenberg asked Mr. Parsons what his issues were. Mr. Parsons told him he thought the fleet manager was a joke. He also said it was a right-to-work state and that he had the right to quit. Mr. Kasenberg invited him downstairs to discuss his issues with the company. Once downstairs, Mr. Kasenberg discovered that Mr. Parsons was the individual who had told the night dispatcher that he was quitting. Therefore, he prepared paperwork for Mr. Parsons to sign to indicate his resignation. Mr. Parsons refused to sign and indicated he had changed his mind about quitting. He was told his resignation had been accepted and that he was no longer an employee of Heartland.

REASONING AND CONCLUSIONS OF LAW:

The parties disagree as to whether Mr. Parsons' separation was a quit or a discharge. The administrative law judge does not believe he truly intended to quit either when he spoke to the night dispatcher or when he was speaking with the group in the drivers' lounge. He was venting and letting off steam because he was upset due to the delay he experienced in Ohio. In order to find a voluntary quit, there must be evidence of an intent to sever the employment relationship accompanied by some overt act of carrying out that intent. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). Mr. Parsons did not do anything to act on his verbal expression of intent to quit.

The employer initiated the separation in this matter when Mr. Parsons was told he no longer had a job with Heartland. As such, the separation was a discharge. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). It appears that the decision to end Mr. Parsons' relationship with Heartland was based on his conduct on March 13, 2009. He was loudly voicing his opinion of Heartland to other drivers. Moreover, there were customers of Heartland in the building as guests at the time of his tirade.

Mr. Parsons' negative comments about Heartland had the potential of causing dissension among other drivers. His actions may also have left a negative impression of Heartland on any customers who overheard his comments. Moreover, his use of profanity may have been less than impressive for any guests who were present. Mr. Parsons denied that his conduct was as described by Mr. Kasenberg. However, after hearing the testimony, the administrative law judge finds the employer more credible. Mr. Parsons' animosity towards Heartland was evident in his testimony. It was obvious that he found Heartland to be an unsatisfactory employer. Given his feelings about the company, it seems more likely than not that the behavior described by Mr. Kasenberg was accurate.

Mr. Parsons' conduct of March 13 was clearly contrary to the employer's interests and standards. For the reasons cited herein, it is concluded that substantial misconduct has been established by the evidence. Accordingly, benefits are denied.

DECISION:

The representative's decision dated April 2, 2009, reference 01, is hereby affirmed. Mr. Parsons was discharged for misconduct in connection with his employment. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided, he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs