

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CAROL E BEARD**  
Claimant

**APPEAL NO: 14A-UI-06188-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RANDY LOAN TRUCKING LLC**  
Employer

**OC: 08/11/13  
Claimant: Respondent (1)**

Iowa Code § 96.5(2)a – Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's June 10, 2014 (reference 06) determination that held the claimant qualified to receive benefits, and the employer's account subject to charge, because the claimant had been discharged for nondisqualifying reasons. The claimant participated at the July 9 hearing. Randy Loan, the owner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant remains qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons that do not qualify her to receive benefits?

**FINDINGS OF FACT:**

The claimant worked six weeks for the employer as a truck driver. The employer discharged the claimant on May 16, 2014. The employer did not give the claimant any reasons for her discharge.

The employer discharged the claimant because the employer received complaints about the billing and tickets, she did not allow scale operators to get the weight of the truck she drove, and she ruined seat belts in two trucks.

During her employment, the claimant does not recall receiving any written warnings. The claimant understood that if information on a probe ticket was incorrect, she needed to get it corrected immediately. The claimant knew about two times information on a probe ticket was not corrected. The last one occurred on May 16 when she asked the person who gave her the probe ticket to make a correction and he would not. When information on a probe ticket was not corrected, the tickets indicated the corn came from Loan Farms instead of Consumer Cooperative. When this occurred it may have appeared that the employer was trying to steal or take credit for corn, when the corn actually came from Consumer Cooperative.

The claimant knew about one time that she drove off scales before the weight of truck was taken. The claimant thought she had been given the signal to drive off the scale, when the scale operator had not. Although she would have gone back on the scale, no one asked her to do this. The claimant believed the weigh station had an estimated weight of the truck she drove.

In early May, the employer talked to the claimant about seat belts she used. When the claimant drove, the seat belt was too tight and it hurt her neck. She used a latch on the seat belt to adjust the seat belt so the seat belt was comfortable when she drove. The employer asserted she removed the cover on the seat belt return so the springs would come out and it had to be replaced. The employer's assertion is not supported by any evidence that the claimant damaged the seat belts.

After the employer discharged the claimant on May 16 she reopened her claim for unemployment insurance benefits. The claimant reopened her claim the week of May 18. The claimant filed a claim for benefits for the week ending May 24, 2014. She received the balance of her unemployment insurance benefits for this week, or a gross benefit payment of \$390.34.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her 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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer presented several reasons for discharging the claimant. The claimant denied or explained each incident the employer asserted was a reason for discharging her. The claimant agreed she drove off a scale before the truck weight had been obtained. Based on the claimant's testimony, she believed she had been told to move and did. When the claimant learned her truck's weight had not been obtained, she would have gone back on the scale, but was not asked to do this. The claimant believed the truck's estimated weight was on record.

The claimant admitted she properly adjusted her seat belts, but she denied she took off a cover so springs would come off and the employer had to replace the springs. There is no credible evidence indicating the claimant intentionally damaged seat belts in two trucks she drove.

The primary problem was double checking probe tickets to make sure the right entity got credit for the corn the claimant delivered. The claimant demonstrated during the hearing that she understood the process. The facts establish that on May 16 the claimant tried to get information on probe tickets corrected. On May 16 the employee who issued probe tickets would not make the necessary correction. While I understand why the employer was very troubled when mistakes on the probe tickets were not corrected, the evidence does not show that the claimant intentionally failed to correct the probe ticket so billing would be done correctly.

Since the claimant denied most of the reasons for her employment separation, the employer's assertion without any supporting evidence does not meet the employer's burden of proof that the claimant committed work-connected misconduct. The employer established that the claimant made mistakes and used poor judgment at times, but the evidence does not establish that she intentionally and substantially disregarded the employer's interests. The employer did not establish that the claimant committed work-connected misconduct. As of May 18, 2014 the claimant is qualified to receive benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

**DECISION:**

The representative's June 10, 2014 (reference 06) determination is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of May 18, 2014 the claimant is qualified to receive benefits. During the claimant's current benefit year, the employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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