

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD L CROFT
Claimant

APPEAL NO: 13A-UI-07459-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 05/12/13
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's June 14, 2013 determination (reference 01) 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 did not respond to the hearing notice or participate in the hearing. Dave Delmasso, a human resource representative, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct, or did the claimant voluntarily quit without good cause?

FINDINGS OF FACT:

The claimant started working for the employer in June 2012. The claimant worked as an over-the-road driver. The claimant's last day of work was April 6, 2013.

The claimant may have talked to his dispatcher sometime between April 7 and 10, but on April 11 the claimant talked to a human resource representative and asked for some time off for medical reasons. The claimant had a non-work-related injury that required surgery on a finger.

The claimant was not eligible for FMLA, but the employer granted him 15 days off as medical leave. The employer explained that if the claimant was able to return to work within the 15 days, he would have his job. If he was unable to return to work within 15 days, the employer would end his employment. But if the claimant could return to work within 16 to 30 days, the employer would try to rehire him.

The claimant talked to the employer on April 23 and reported that he had a doctor's appointment on April 26. The claimant hoped his doctor would release him to return to work at this appointment. The employer ended the claimant's employment as of April 23 when he was unable to return to work within 15 days. The employer did not have any contact with the claimant after April 23. The employer received inquiries from other employers about the claimant's reference after April 23, 2013.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The facts do not establish that the claimant quit. Instead, he was on an approved leave of absence until April 22 or 23, 2013. When the claimant had not yet been released to return to work by April 23, the employer followed its leave policy and discharged the claimant. The fact the claimant did not contact the employer after April 23 to find out if the employer would rehire him does not change the fact the employer discharged him or ended his employment on April 23, 2013.

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 established business reasons and followed its leave policy to end the claimant's employment when he was unable to return to work by April 22 or 23. The claimant did not commit work-connected misconduct. Therefore, as of May 12, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's June 14, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons when he was unable to return to work within 15 days of an approved leave. The claimant did not commit work-connected misconduct. As of May 12, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs