

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DUANTE J HOLMES
Claimant

HEARTLAND EXPRESS INC OF IOWA
Employer

APPEAL 15A-UI-12257-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/27/15
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 28, 2015 (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on November 23, 2015. The claimant participated personally. Although properly notified for the hearing, the employer did not furnish a phone number for itself or representative to participate. No documents were offered or admitted into evidence.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as an over-the-road truck driver and was separated from employment on September 21, 2015; when he was discharged for having too many accidents.

The claimant was discharged following a safety review from a September accident in northern California, where the claimant's vehicle had to be towed. The accident occurred when the claimant's vehicle got stuck while taking a curve in the road. The claimant was not supposed to be driving this road but his navigation equipment had gone out so he had no directions. The claimant could have pulled over and called the employer to request directions but did not. As a result, when he became stuck, the trailer had to be towed. Prior to the claimant's final accident, he had two additional accidents including one in July 2015; where he backed into a truck, causing property damage and one in May 2015 where he backed into a trailer causing property damage. The claimant was aware that too many accidents could result in his discharge.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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 a duty to protect the safety of its employees and the motoring public at large. Professional drivers including those who possess a commercial driver's license (CDL) and operate large vehicles are held to a higher standard of care in the performance of their job duties. This is evident by the special licensing requirements. The claimant had three preventable accidents in a four month period. The claimant knew or should have known his conduct was in disregard of the employer's interests and reasonable standards of behavior that the employer has a right to expect of its employees. Work-connected misconduct as defined by the unemployment insurance law has been established in this case. Benefits are withheld.

DECISION:

The October 28, 2015 (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

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