

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM L BROWN
Claimant

APPEAL NO. 11A-UI-11449-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CARGILL MEAT SOLUTIONS
CORPORATION**
Employer

OC: 07/17/11
Claimant: Appellant (5)

Section 96.5-1 – Voluntary Quit
Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

William L. Brown filed a timely appeal from an unemployment insurance decision dated August 26, 2011, reference 01, that disqualified him for benefits upon a finding that he had been discharged for misconduct in connection with his employment. After due notice was issued, a telephone hearing was held September 19, 2011 with Ben Wise participating for the employer, Cargill Meat Solutions Corporation. Although Mr. Brown had provided a telephone number at which he could be contacted, he was not present when called at the time of the hearing. The administrative law judge left instructions for Mr. Brown to call if he wished to participate. There was no further contact from the claimant.

ISSUES:

Was the separation a quit or a discharge?

Was the separation a disqualifying event?

FINDINGS OF FACT:

William L. Brown was a production worker for Cargill Meat Solutions Corporation from December 14, 2009 until March 9, 2011. Mr. Brown was absent without contact on March 7, 8 and 9, 2011 because he was incarcerated. The employer has a rule that provides that three days of absence without contact is considered a voluntary quit.

REASONING AND CONCLUSIONS OF LAW:

A claimant is disqualified for unemployment insurance benefits if he or she resigns without good cause attributable to the employer or is discharged for misconduct in connection with the employment. Iowa Administrative Code section 871-24.25(4) provides that an individual who is absent without notice for three days in violation of a company rule is presumed to have quit without good cause attributable to the employer. 871 IAC 24.25(16) states that an individual is deemed to have left work without good cause attributable to the employer if he or she becomes

separated from employment because of incarceration. The administrative law judge concludes from the evidence that the claimant became unemployed under circumstances contemplated by these rules. Benefits are withheld.

DECISION:

The unemployment insurance decision dated August 26, 2011, reference 01, is modified. The separation is characterized as a quit without good cause attributable to the employer rather than a discharge for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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