

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW A BOATMAN**

Claimant

**APPEAL NO. 07A-UI-06113-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**

Employer

**OC: 05/13/07 R: 03  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Cargill Meat Solutions Corporation (Cargill) filed an appeal from a representative's decision dated June 5, 2007, reference 01, which held that no disqualification would be imposed regarding Matthew Boatman's separation from employment. After due notice was issued, a hearing was held by telephone on July 5, 2007. The employer participated by Melissa Skinner, Assistant Human Resources Manager. Exhibits One, Two, and Three were admitted on the employer's behalf. Mr. Boatman did not respond to the notice of hearing.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Boatman was employed by Cargill beginning July 11, 2006. He was employed full time as a laborer. He last performed services on April 23, 2007. He did not call to report his absences of April 24, 25 and 26. He called to report absences on May 1, 2, and 4 but not May 3. When he returned to work on May 8, he was discharged due to unreported absences. Attendance was the sole reason for the separation.

Mr. Boatman filed a claim for job insurance benefits effective May 13, 2007. He has received a total of \$531.00 in benefits since filing his claim.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that Mr. Boatman's separation was initiated by the employer on May 8 when he was told he no longer had employment. Therefore, 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). An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences.

Mr. Boatman was absent without calling in on four occasions between April 23 and the date of discharge. He knew absences were to be reported. The evidence does not establish any justification for the failure to give notice of intended absences on April 24, 25, 26 and May 3. Because the absences were not reported, they are unexcused. Mr. Boatman had four unexcused absences over a period of slightly over two weeks. The administrative law judge considers this excessive. Excessive unexcused absenteeism constitutes a substantial disregard of the standards an employer has the right to expect. For the reasons cited herein, it is concluded that misconduct has been established and benefits are denied.

Mr. Boatman has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

**DECISION:**

The representative's decision dated June 5, 2007, reference 01, is hereby reversed. Mr. Boatman was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Boatman has been overpaid \$531.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs