

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE H JARR
Claimant

APPEAL NO. 09A-UI-07848-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

**Original Claim: 04/19/09
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Shane Jarr filed an appeal from a representative's decision dated May 21, 2009, reference 01, which denied benefits based on his separation from Cargill Meat Solutions Corporation (Cargill). After due notice was issued, a hearing was held by telephone on June 16, 2009. Mr. Jarr participated personally and was represented by Mike Larkin, Chief Union Steward, who offered additional testimony from Valerie Walker. The employer participated by Rachel Watkinson, Human Resources Associate.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Jarr was employed by Cargill from May 22, 2007 until April 22, 2009. He worked full time in production. He was discharged because of his attendance. On March 13, 2009, he entered into a "last chance" agreement in lieu of discharge. The agreement provided for discharge if he had further attendance issues.

Mr. Jarr did not miss any further time from work until April 21. He reported to work at his scheduled time on April 21 but did not have his identification because he lost his wallet. He reported to the guard shack but was denied admittance into the facility. The employer-issued identification is needed to get into the building and to clock in. If the identification is lost, the guards will allow entry if the individual has another form of identification. Because he had lost his wallet, Mr. Jarr did not have other identification. The guard told him to return at 7:00 a.m. when the human resources office opened to get a new identification card.

Mr. Jarr returned home with the intent of returning at 7:00 a.m. He also decided to call his superintendent to explain his situation. The superintendent told him he no longer had a job. Mr. Jarr came in on April 22 and attempted to explain his situation to someone in human resources but still was not allowed to return to work. It is the employer's policy not to assess

attendance points against first-shift employees who are late because they have to wait for human resources to open in order to obtain new identification. The policy is the result of a grievance settlement.

REASONING AND CONCLUSIONS OF LAW:

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). Mr. Jarr was discharged because of a violation of the "last chance" agreement he signed on March 13, 2009. Technically, he was not late reporting to work, as he was at the guard shack at his scheduled time. It was only because he lost his wallet that he was unable to enter the building and report to his work station.

The administrative law judge concludes that Mr. Jarr should be afforded the same benefit as other first-shift employees who lose their identification and cannot clock in until human resources is available. It was not his fault that human resources personnel were not available to issue him a new identification at his 5:00 a.m. start time. Mr. Jarr did not deliberately and intentionally violate the terms of the agreement. For the reasons stated herein, the administrative law judge concludes that disqualifying misconduct has not been established. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated May 21, 2009, reference 01, is hereby reversed. Mr. Jarr was discharged, but misconduct has not been established. Benefits are allowed, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw