

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MONICO C REQUENA
Claimant

APPEAL NO. 09A-UI-01753-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTION CORP
Employer

OC: 12/28/08 R: 03
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated January 21, 2009, reference 02, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on February 24, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative and witness, Brian Ulin. Alicia Alonzo participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a production worker from July 29, 1996, to December 30, 2008. The claimant was warned about reporting late to his work station on November 29 and December 1.

On December 29, 2008, the claimant was working at the end of a production line. His job was to hang bellies that had been fed through the line. On December 29, the person feeding the line when on break about five minutes before the appointed time. The claimant hung all the bellies that were available on the production line and then went on break as well since there would be no further work left to do until the break was completed. The claimant took the allotted 15-minute break and then returned to work with the rest of the line.

The employer discharged the claimant on December 30, 2008, for misuse of company time by going to break five minutes early.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 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 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 substantial and 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).

No willful and substantial misconduct has been proven in this case. The claimant did not misuse company time on December 30, 2008, since he finished all available work before leaving the line and he did not take any longer than the allotted break time.

DECISION:

The unemployment insurance decision dated January 21, 2009, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs