

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HAZEN D BEGGS**

Claimant

**APPEAL NO. 09A-UI-02252-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**

Employer

**Original Claim: 12/14/08  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Cargill Meat Solutions Corporation (Cargill) filed an appeal from a representative's decision dated February 3, 2009, reference 01, which held that no disqualification would be imposed regarding Hazen Beggs' separation from employment. After due notice was issued, a hearing was held by telephone on March 10, 2009. Mr. Beggs participated personally and offered additional testimony from Brian Ulin and Barbara Cobert. The employer participated by Sarah James, Assistant Human Resources Manager.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Beggs was employed by Cargill from September 15, 2003 until December 17, 2008 as a full-time production worker. He was discharged because the employer believed he had given false information as to whether he was wearing protective equipment at the time he sustained an injury.

On December 17, Mr. Beggs reported to the nurse's office with a cut on his hand. He was with the nurse approximately 30 minutes before he was taken to the hospital for treatment. He indicated he had been wearing his required "wizard" glove but could not produce it for the employer at that time. He produced the glove two hours later and indicated it had been in his pocket. He told the employer he had been wearing a white cotton glove under a green rubber glove with the wizard glove over both. A coworker, Barbara Cobert, told their supervisor that she had witnessed the injury and that Mr. Beggs had been wearing his wizard glove at the time.

The employer did not believe the cut in the wizard glove produced by Mr. Beggs matched the location of the cut on his hand. This factor, along with his failure to immediately produce the glove after the injury, caused the employer to believe he had not been wearing the glove at the time of the injury. The employer believed he cut the glove after the injury in an effort to prove he had been wearing it at the time he cut his hand. The employer did not believe Ms. Cobert's account of the

incident. Because it was believed Mr. Beggs provided false information, he was discharged on December 17, 2008. The above incident was the sole reason for the separation.

#### **REASONING AND CONCLUSIONS OF LAW:**

Mr. Beggs was discharged by Cargill. 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. Beggs was discharged based on an allegation that he provided false information regarding whether he was wearing personal protective equipment at the time he sustained an injury to his hand. The employer's contention is based on the fact that he did not immediately produce the wizard glove he was required to wear and the fact that the cut area on the glove was not consistent with the area of the cut on his hand.

It is possible that Mr. Beggs did forget that he had put the wizard glove in his pocket after the injury. Given the fact of the injury, the visit to the nurse's station, and the visit to the emergency room, it is possible that the excitement caused him to forget the glove was in his pocket along with other gloves he used for work. The administrative law judge did not have the benefit of examining the gloves worn by Mr. Beggs on December 17. The photographs offered by Mr. Beggs are of no assistance in determining the location of the cut on the wizard glove. The parties disagree as to whether the cut on the glove was in the same area as the injury and the administrative law judge has no independent means of determining the issue.

The administrative law judge cannot overlook the testimony of Ms. Cobert. She told the supervisor, and later confirmed for management, that Mr. Beggs was wearing the wizard glove at the time of the injury. The employer did not dispute the fact that her workstation was in an area where she would be able to see the injury occur. There was no factual basis on which to conclude that Ms. Cobert was not a credible witness. Since the employer had the burden of proof in this matter, any doubt as to whether Mr. Beggs was wearing the glove at the time of injury will be resolved in his favor.

For the reasons stated herein, it is concluded that the employer has failed to sustain its burden of proving that Mr. Beggs did, in fact, provide false information. Inasmuch as that was the only reason for discharge, the employer has not satisfied its burden of proving disqualifying misconduct. As such, benefits are allowed.

#### **DECISION:**

The representative's decision dated February 3, 2009, reference 01, is hereby affirmed. Mr. Beggs was discharged, but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw