

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD R GOLDEN
Claimant

APPEAL NO. 07A-UI-06875-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CONAGRA FOODS PACKAGED
FOODS COMPANY INC**
Employer

OC: 05/06/07 R: 01
Claimant: Appellant (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Donald Golden filed an appeal from a representative's decision dated July 11, 2007, reference 01, which denied benefits based on his separation from ConAgra Foods Packaged Foods Company, Inc. (ConAgra). After due notice was issued, a hearing was held by telephone on July 30, 2007. Mr. Golden participated personally. The employer opted not to participate in the hearing.

ISSUE:

At issue in this matter is whether Mr. Golden 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. Golden was employed by ConAgra beginning July 16, 2005. He was last employed full time as a packaging operator. He was suspended from work on June 11, 2007 because of an inappropriate comment he allegedly made to a new female employee. When Mr. Golden returned to work on June 18 as directed, he was notified of his discharge. He was not at any point told what he was alleged to have said to the coworker. Mr. Golden was not given any other reason for the discharge.

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. Golden was told he was being discharged because of a comment he made to female coworker. He did not recall saying anything to her that might be construed as inappropriate. The evidence of record does not disclose what Mr. Golden was reported to have said to the female coworker.

The employer chose not to participate in the hearing. The employer has not provided sworn testimony or other evidence to sustain its burden of proof. Without knowing what Mr. Golden is alleged to have said, the administrative law judge cannot conclude that he made an inappropriate remark to a coworker. Inasmuch as no other reason was given for the discharge, the administrative law judge concludes that there is no basis on which to disqualify Mr. Golden from receiving job insurance benefits.

DECISION:

The representative's decision dated July 11, 2007, reference 01, is hereby reversed. Mr. Golden was discharged by ConAgra but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs