

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNA L FLOWERS

Claimant

APPEAL NO. 09A-UI-00339-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS

Employer

**OC: 10/26/08 R: 01
Claimant: Appellant (2)**

Section 96.5(2) – Discharge for Misconduct

STATEMENT OF THE CASE:

Donna Flowers filed an appeal from a representative's decision dated December 29, 2008, reference 01, which denied benefits based on her separation from Cargill Meat Solutions (Cargill). After due notice was issued, a hearing was held by telephone on January 26, 2009. Ms. Flowers participated personally. The employer participated by Joe Nevel, Human Resources Manager.

ISSUE:

At issue in this matter is whether Ms. Flowers 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: Ms. Flowers was employed by Cargill from October 15, 1996 until October 29, 2008. She was last employed full time in the warehouse. On October 25, 2008, she was talking with Sandy, the acting supervisor, about a label problem when another employee, Melody, approached. Melody interrupted the conversation to find out what was being said over the two-way radio Ms. Flowers was wearing. Ms. Flowers told her to find another radio and continued her conversation with Sandy.

Melody continued to interrupt the conversation between Sandy and Ms. Flowers. Therefore, Ms. Flowers tapped her on her hard hat. Melody hit her back. Ms. Flowers was discharged for violating the employer's policy regarding fighting on the job. The above incident was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

Ms. Flowers was discharged from employment with 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. Ms. Flowers was discharged based on an allegation that she was fighting on the job in violation of a known work rule. She acknowledged that she

did tap Melody's hard hat. It appears that she was only attempting to get Melody's attention so that she would stop intruding on the conversation she was having with the supervisor.

Ms. Flowers' actions did not constitute a substantial disregard of the employer's standards. She used poor judgment in tapping Melody's hard hat. However, isolated instances of poor judgment do not constitute misconduct within the meaning of the law. Inasmuch as the incident of October 25 was the sole reason for the discharge, no disqualification is imposed.

DECISION:

The representative's decision dated December 29, 2008, reference 01, is hereby reversed. Ms. Flowers was discharged by Cargill but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css