

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HECTOR M MORALES-LOZANO
Claimant

APPEAL NO. 12A-UI-03051-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 02/05/12
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 20, 2012, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on April 10, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of interpreter, Ike Rocha. Ben Wise participated in the hearing on behalf of the employer with a witness, Fred Smith.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a production worker from June 15, 2009, to February 2, 2012.

The employer discharged the claimant on February 2, 2012, for allegedly failing to follow an instruction given to him by a supervisor to report to the production line downstairs instead of the first floor line. The claimant had originally picked up knives to report to the line on the first floor, but his supervisor told him not to take the knives because he was assigned to work downstairs. The claimant originally did not understand the request, but ultimately he started downstairs. He did not refuse to follow his supervisor's instructions. The claimant had not been disciplined in the past.

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 § 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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The preponderance of the evidence establishes the claimant did not deliberately refuse to follow his supervisor's instructions. He did not understand what he was asked at first and was stopped as he was going downstairs.

No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated March 20, 2012, reference 01, 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