

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LOUIE P DOLL**  
Claimant

**APPEAL NO. 08A-UI-07401-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**  
Employer

**OC: 07/06/08 R: 03**  
**Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Louie Doll filed an appeal from a representative's decision dated July 30, 2008, reference 01, which denied benefits based on his separation from Cargill Meat Solutions Corporation (Cargill). After due notice was issued, a hearing was held by telephone on September 2, 2008. Mr. Doll participated personally. The employer participated by Katie Holcomb, Human Resources Manager.

**ISSUE:**

At issue in this matter is whether Mr. Doll 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. Doll was employed by Cargill from March 21, 2006 until June 27, 2008. He was last employed full time as a production supervisor. He was discharged from the employment because of allegations that he violated the employer's bathroom policy. Employees are allowed to use the bathroom whenever they wish. They have to notify a supervisor or utility person of the need to go. If a supervisor or utility person is not available, they are to notify a coworker. Employees are not to be disciplined for using the bathroom.

On November 19, 2007, Mr. Doll received a written warning based on an allegation that he made an employee wait to go to the bathroom. The employee asked him if she could go and Mr. Doll told her to wait a second while he found a replacement for her on the line. He quickly found a replacement and told the individual needing to use the bathroom to provide information about her work to the person replacing her. The employer construed Mr. Doll's actions as a delay in providing bathroom relief and, therefore, he was reprimanded.

The decision to discharge Mr. Doll was based on his actions of June 27, 2008. An assistant working under him asked him to discipline an individual for returning from break six minutes late. After the warning was prepared and while the discipline was being administered, the employee

indicated her delay was due to the fact that she was in the bathroom. Mr. Doll did not know he could simply tear up the warning. After the warning session, he approached his supervisor to inform him of what had occurred. As a result of his actions, he was discharged on July 6, 2008.

#### **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. Doll was discharged based on allegation that he twice violated the employer's policy regarding bathroom breaks. He did not intentionally or deliberately delay the worker's request to use the bathroom in November. He did ask her to wait a second while he found a replacement. It was not unreasonable for him to assume that asking her to wait a few seconds while he found a replacement was appropriate.

Mr. Doll did participate in disciplining an individual who was late coming back after a break because she was in the bathroom. However, he did not know her delay was due to the bathroom until the paperwork had already been completed. When he realized the disciplinary action might be a problem, he approached his own supervisor. Mr. Doll may have used poor judgment in not immediately tearing up the warning once he realized the worker was claiming that she was delayed because she was in the bathroom. However, he did make a good-faith effort to correct the situation by going to his supervisor.

In order to support a disqualification from job insurance benefits, the misconduct must be substantial. See Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). The acts cited by Cargill do not constitute substantial misconduct. Both episodes represent good-faith efforts by Mr. Doll to comply with the employer's policies. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons stated herein, benefits are allowed.

#### **DECISION:**

The representative's decision dated July 30, 2008, reference 01, is hereby reversed. Mr. Doll was discharged by Cargill but disqualifying 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

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