

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HAGIR K ELGOTA**  
Claimant

**APPEAL NO: 12A-UI-00373-S**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 10/30/11**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated December 15, 2011, reference 01, that held she was discharged for misconduct on October 30, 2011, and benefits are denied. A hearing was held on February 15, 2012. The claimant, and Interpreter, Saro Alqaisi, participated. The employer elected not to participate. Claimant Exhibit A was received as evidence.

**ISSUES:**

Whether the claimant filed a timely appeal.

Whether claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The department mailed the decision to claimant's address of record December 15, 2011 with an appeal deadline date of December 25 that is extended to the next working day, December 27. The claimant submitted an appeal to the department on January 4, 2012. She speaks Arabic/Sudanese and her appeal delay was taking the decision to someone who could help her understand it.

Claimant was a full-time production worker from August 10, 2009 to November 3, 2011. She was discharged due to a squabble involving a co-worker. She reported to her supervisor that she was called bad names and struck by the co-worker.

The employer elected not to participate in this hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The administrative law judge concludes the claimant affected a timely appeal.

The claimant offered a good cause for her appeal delay that was seeking an interpreter to translate the decision.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The administrative law judge further concludes the employer failed to participate in this hearing and establish job disqualifying misconduct in the termination of employment on November 3, 2011.

**DECISION:**

The department decision dated December 15, 2011, reference 01, is reversed. The claimant affected a timely appeal. The claimant was not discharged for misconduct on November 3, 2011. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs