

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CORSANDRA L BUFORD**  
Claimant

**APPEAL NO. 09A-UI-05212-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**Original Claim: 02/22/09  
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
Section 96.4-3 – Eligibility for Benefits

**STATEMENT OF THE CASE:**

Corsandra L. Buford filed a timely appeal from an unemployment insurance decision dated March 31, 2009, reference 02, that disqualified her for benefits. After due notice was issued, a telephone hearing was held April 30, 2009, with Ms. Buford participating. Exhibit A was admitted into evidence on her behalf. The employer, Tyson Fresh Meats, Inc. did not respond to the notice.

**ISSUES:**

Was the claimant's separation from employment a disqualifying event?

Is the claimant able to work?

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Corsandra L. Buford was employed by Tyson Fresh Meats, Inc. from April 30, 2007, until January 31, 2009, when she was discharged. Ms. Buford was on a medical leave of absence from January 24 to January 31, 2009. She was released to return to work with a ten-pound lifting restriction. The employer did not have work for her. Ms. Buford has subsequently been released to return to work without restriction.

**REASONING AND CONCLUSIONS OF LAW:**

The first question is whether the evidence establishes that the claimant was discharged for misconduct in connection with the individual's employment.

Iowa Code section 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.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The evidence in the record establishes that the claimant was discharged because the employer chose not to or could not provide light-duty work for her when she returned from a leave of absence. Discharge under such circumstances is not considered to be for misconduct in connection with the employment. No disqualification may be imposed as a result of the separation.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The evidence establishes that the claimant has been released to return to work without restriction. The administrative law judge concludes that she meets the eligibility requirement of being able to work.

**DECISION:**

The unemployment insurance decision dated March 31, 2009, reference 02, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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