

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FLORIBERTHA RODRIGUEZ
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL NO. 13A-UI-10807-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/18/13
Claimant: Respondent (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The employer appealed a department representative's decision dated September 12, 2013, reference 01, that held the claimant was not discharged for misconduct on August 21, 2013 and benefits are allowed. A hearing was scheduled for October 16, 2013. The claimant and employer did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the witness testimony and having considered the evidence in the record finds that: The claimant worked as full-time production from March 28, 2008 to August 21, 2013. The employer discharged claimant for attendance.

The claimant and the employer were called at the phone numbers provided and no one was available to participate.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge concludes that the employer failed to establish misconduct in the discharge of the claimant on August 21, 2013, for excessive "unexcused" absenteeism. The employer failed to participate in this hearing and offer evidence of job disqualifying misconduct.

DECISION:

The decision of the representative dated September 12, 2013, reference 01, is affirmed. The claimant was not discharged for misconduct in connection with employment on August 21, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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