

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ADAMA G KANTE**

Claimant

**APPEAL NO: 10A-UI-13347-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**

Employer

**OC: 08/08/10**

**Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's September 23, 2010 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. The claimant participated in the hearing. Jessica Sheppard testified on the employer's behalf. Miriam Sidibe interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in March 2007. When the claimant started his employment, the employer gave him information that if an employee gave the employer any falsified document, the employee could be discharged immediately. The claimant worked as a full time employee. Prior to August 4, 2010 the claimant's job was not in jeopardy and he did not have any attendance problems.

The claimant called in sick on August 2 after he had a reaction to some prescribed medication. The claimant's wife went to the doctor's office the morning of August 3 to get a doctor's statement indicating when the claimant could return to work. The doctor's note indicated the claimant could return to work on August 3.

The claimant initially intended to work on August 3. He was scheduled to work later in the day, 2 or 3 p.m. By the time the claimant was to report to work, he did not feel well. The claimant called the employer to report he would not be at work on August 3. When the claimant reported to work on August 4, he gave the employer's nurse the doctor's statement that released him to work. The doctor's statement the employer received stated the claimant could return to work on August 4. The date on the statement looked as if someone had altered or changed the date.

The employer talked to the claimant about the date on the doctor's statement. The claimant indicated he had not done anything with the date. The employer called the doctor's office and asked if a nurse had changed the date on the doctor's statement. The doctor's office reported that no one from that office changed the date. The original doctor's statement was faxed to the employer. The original statement indicated the claimant could return to work on August 3, not August 4.

The employer again talked to the claimant who reported that his wife had picked up the doctor's statement for him. The claimant asked the employer to talk to his wife, which they did. The claimant's wife denied that she changed the date of the doctor's statement from August 3 to August 4. She reported that a nurse at the doctor's office had made the change, but she did not know this person by name.

Even though the claimant's job was not in jeopardy prior to August 4 and he did not have an attendance problem, the employer discharged the claimant on August 6 for providing the employer with an altered doctor's statement. After he was discharged, the claimant provided the employer another doctor's statement indicating he was released to work on August 4.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The evidence establishes that someone changed the date on the doctor's statement from August 3 to 4. Although the claimant understood that someone in the doctor's office altered the date, the claimant's wife did not know who had done this and when the employer talked to the doctor's office no one admitted changing the date. The facts establish that either the claimant's wife or a family member changed the date on the original doctor's statement. The facts do not establish that the claimant knew the date on the doctor's statement had been changed when he gave it to the employer on August 4. Since the claimant did not have an attendance issue, if he had not provided a doctor's statement he would have received an attendance occurrence but his job still would not have been in jeopardy.

The employer established justifiable business reasons for discharging the claimant. The evidence does not however, establish that the claimant intentionally disregarded the employer's

interests or knowingly handed in an altered doctor's statement. The facts do not establish that he committed work-connected misconduct. As of August 8, 2010, the claimant is qualified to receive benefits.

**DECISION:**

The representative's September 23, 2010 determination (reference 01) is reversed. The employer discharged the claimant for justifiable reasons, but the claimant did not commit work-connected misconduct. As of August 8, 2010, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs