

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMARA D ROSALES**  
Claimant

**APPEAL NO. 08A-UI-07314-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**  
Employer

**OC: 07/20/08 R: 03**  
**Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Tamara Rosales filed an appeal from a representative's decision dated August 8, 2008, reference 01, which denied benefits based on her separation from Cargill Meat Solutions Corporation (Cargill). After due notice was issued, a hearing was held by telephone on September 4, 2008. Ms. Rosales participated personally and offered additional testimony from Sirena Leach. The employer participated by Jordan Weber, Assistant Human Resources Manager.

**ISSUE:**

At issue in this matter is whether Ms. Rosales 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: Ms. Rosales was employed by Cargill from October 7, 2002 until July 18, 2008 as a full-time production worker. She left work early on July 16, 2008 because she was having problems with her hands. She had been seeing the company nurse but continued to have problems with her hands. She was experiencing too much pain on July 16 to continue working.

Ms. Rosales' supervisor was not on the floor when she left the line on July 16. She ran into the supervisor when she went downstairs and told him she was leaving for the day. She called on July 17 to report that she would be absent. When she returned to work on July 18, she was discharged. The reason for the discharge was that she left the line without permission on July 16. The above matter was the sole reason for the separation.

**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). Ms. Rosales was discharged based on an allegation that she left the production line without permission. She did leave the line without permission, but the supervisor was not on the floor at the time. She would have had to leave her line in order to locate the supervisor in order to get permission to leave work. At most, Ms. Rosales may have used poor judgment in not remaining on the line until the supervisor returned to the area. Given the pain she was experiencing in her hand, this isolated instance of poor judgment would not constitute substantial misconduct sufficient to warrant a disqualification from benefits. See 871 IAC 24.32(1). No other reason was given for the discharge.

After considering all of the evidence, the administrative law judge concludes that the employer has failed to satisfy its burden of proving disqualifying misconduct. 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 August 8, 2008, reference 01, is hereby reversed. Ms. Rosales was discharged by Cargill, but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw