

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CORY G HESS**

Claimant

**APPEAL NO. 11A-UI-12608-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**

Employer

**OC: 08/21/11**

**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 15, 2011 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on October 17, 2011. Claimant participated. Employer participated through human resources manager, John Carreras.

**ISSUE:**

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a production worker and was separated from employment on August 24, 2011. Gigit Harris observed claimant urinate in a carcass storage 'hot box' on August 22, 2011. The carcasses are stored there to chill before being moved to the next stage of processing in another plant. Claimant admitted the conduct to Carreras and his supervisor. He had an urgent need to urinate and the supervisor was not in the area but he did not simply leave the line to go to the restroom and notify someone on the line as is permissible.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

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.

Claimant did not rebut employer's reason for the separation. His failure to maintain sanitary conditions for the product was deliberate misconduct. Benefits are denied.

**DECISION:**

The September 15, 2011 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/css