

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**GARANG AGWIAR  
2563 IRVING CT APT E  
OMAHA NE 68131-1670**

**TYSON FRESH MEATS INC  
c/o TALX UCM SERVICES INC  
PO BOX 283  
ST LOUIS MO 63166-0283**

**Appeal Number: 06O-UI-05428-BT  
OC: 02/26/06 R: 01  
Claimant: Respondent (2)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96 5-2-a – Discharge for Misconduct  
Section 96.3-7 - Overpayment

STATEMENT OF THE CASE:

Tyson Fresh Meats, Inc. (employer) appealed an unemployment insurance decision dated March 14, 2006, reference 01, which held that Garang Agwiar (claimant) was eligible for unemployment insurance benefits. Administrative Law Judge Mormann conducted an initial hearing on this matter in appeal 06A-UI-03421-MT in which benefits were denied. The claimant appealed the decision indicating he did not participate due to lack of notice. The Employment Appeal Board remanded for a new hearing in an order dated May 19, 2006. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 13, 2006. The claimant participated in the hearing. Francis Chan translated on

behalf of the claimant. The employer participated through Mike LeFevre, Human Resources Manager.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The Findings of Fact set forth in the decision in appeal 06A-UI-03421-MT are adopted and incorporated herein as if set forth at length.

**REASONING AND CONCLUSIONS OF LAW:**

The Reasoning and Conclusions of Law of the administrative law judge in appeal 06A-UI-03421-MT are adopted and incorporated herein as if set forth at length.

**DECISION:**

The unemployment insurance decision dated March 14, 2006, reference 01, is reversed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$1,745.00.

sdb/kkf