

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ERIC M SCHMITZ**  
Claimant

**APPEAL NO. 10A-UI-08418-S**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS DAIRY INC**  
Employer

**OC: 05/09/10**  
**Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated June 4, 2010, reference 01, that held he was discharged for misconduct on May 12, 2010, and that denied benefits. A hearing was held in Sioux City, Iowa, on September 14, 2010. The claimant participated. The employer did not participate.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witness and having considered the evidence in the record, finds: The claimant began employment as a full-time employee on February 2, 2009, and last worked for the employer on May 12, 2010. The employer discharged the claimant for a code of conduct violation.

The employer failed to appear for the hearing.

**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 the employer has failed to establish the claimant was discharged for misconduct in connection with employment on May 12, 2010. The employer failed to participate in this hearing and present evidence that constitutes job-disqualifying misconduct.

**DECISION:**

The department decision dated June 4, 2010, reference 01, is reversed. The claimant was not discharged for misconduct on May 12, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw