

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

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CARGILL MEAT SOLUTIONS CORP
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PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-00131-HT
OC: 12/11/05 R: 03
Claimant: Appellant (1)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a - Discharge

STATEMENT OF THE CASE:

The claimant, Franklin Mills, filed an appeal from a decision dated January 3, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 23, 2006. The claimant participated on his own behalf. The employer, Cargill, participated by Human Resources Associate Erica Bleck.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Franklin Mills was employed by Cargill from December 15, 1997 until December 10, 2005. He was a full-time rendering operator working

1:00 p.m. until 9:00 p.m. He received a copy of the employee handbook during the course of his employment. Work Rule D-19 provides for immediate discharge for any employee who is guilty of interference with production, inefficiency, or neglect of duty.

On December 10, 2005, Supervisor Dwight Headly found the claimant sleeping in the lard room office while the rendering tanks were overflowing and spilling product on the floor. The result was the lard processing line on the cut floor having to be shut down. The claimant was confronted by Mr. Headly and another supervisor, Brent Baker. They told him they had seen him sleeping and he admitted he "could have been." He was discharged later that same shift.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The fact the claimant was sleeping on the job was only part of the offense which caused him to be fired. By sleeping, instead of attending to his duties, he caused the employer to lose product

when the tanks overflowed onto the floor. As a result, the processing room had to be shut down, which caused further loss of time and product. This is a clear violation of the work rule which prohibits "neglect of duty" and "interference with production." This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of January 3, 2006, reference 01, is affirmed. Franklin Mills is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/kjw