

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTOINE W BOWMAN**

Claimant

**APPEAL NO: 10A-UI-06448-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**

Employer

**OC: 04/14/10**

**Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated April 27, 2010, reference 01, that held he was discharged for misconduct on March 31, 2010, and benefits are denied. A telephone hearing was held on June 21, 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 worked for the employer as a full-time production worker from January 25, 2009 to March 31, 2010. The claimant was discharged for incurring excessive points in violation of the attendance policy. The final absences were called in by the claimant due to him testifying as a subpoenaed witness. The employer failed to respond to the hearing notice.

**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 claimant was discharged for misconduct in connection with employment on March 31, 2010. The employer failed to participate and establish the claimant's absences constitute job disqualifying misconduct.

**DECISION:**

The department decision dated April 27, 2010, reference 01, is reversed. The claimant was not discharged for misconduct on March 31, 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/pjs