

**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**

**STEPHEN C BRYANT  
218 LOGAN AVE  
WATERLOO IA 50703-9265**

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

**Appeal Number: 06A-UI-04647-CT  
OC: 03/26/04 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, 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.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Stephen Bryant filed an appeal from a representative's decision dated April 28, 2006, reference 01, which denied benefits based on his separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on May 17, 2006. Mr. Bryant participated personally. The employer participated by Elena Reader, Human Resources Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Bryant was employed by Tyson from November 4, 2003 until March 23, 2006. He last worked full time as a utility person in the knife

room. He also worked in the laundry room as needed. On March 22, 2006, Mr. Bryant was assigned to the knife room when he began feeling drowsy. He went to the laundry room, sat down and fell asleep. By his estimate, he slept for approximately ten minutes. He was not assigned to the laundry room and was not entitled to be on break at the time.

When questioned by the employer, Mr. Bryant indicated he had fallen asleep because he was tired. He did not attribute his actions to the effects of medication. He has been taking medication for pain for several months and knew that it made him drowsy. He was discharged on March 23, 2006, solely because of sleeping on the job in violation of a company rule.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Bryant was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Bryant was discharged for sleeping on the job. He knew or should have known that his conduct was contrary to the employer's standards. This was not a case of an employee "nodding off" while at his work station. Mr. Bryant felt drowsy and went to a place other than his assigned work station and sat down. Sitting down would not seemingly be a way to resolve drowsiness while remaining busy would. Mr. Bryant should have known that sitting down while drowsy could result in falling asleep. The fact that he left his work station suggests that he intended to rest and/or sleep. Since he was not entitled to a break at that point, his time away from his work station was unauthorized. He should have notified a supervisor if he was experiencing side-effects from his medication.

The administrative law judge concludes that Mr. Bryant's conduct in sleeping on the job constituted a substantial disregard of the standards the employer had the right to expect. Accordingly, benefits are denied.

#### DECISION:

The representative's decision dated April 28, 2006, reference 01, is hereby affirmed. Mr. Bryant was discharged by Tyson for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kkf