

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TROY J SPRINGER**  
Claimant

**APPEAL NO. 15A-UI-00841-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL INCORPORATED**  
Employer

**OC: 12/14/14**  
**Claimant: Respondent (2)**

Iowa Code Section 96.5(2)(a) – Discharge for Misconduct  
871 IAC 24.32(9) – Suspension

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 13, 2015, reference 01, decision that allowed benefits to the claimant, provided he was otherwise eligible, and that held the employer's account could be charged for benefits; based on an Agency conclusion that the claimant had been discharged for no disqualifying reason on December 14, 2014. After due notice was issued, a hearing was held on February 12, 2015. The claimant did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Kristen, Parks represented the employer. Exhibits One and Two were received into evidence. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant, which record indicates that no benefits have been disbursed to the claimant in connection with the claim that was effective December 14, 2014.

**ISSUE:**

Whether the claimant was discharged or suspended for misconduct in connection with the employment that disqualifies the claimant for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has been employed by Cargill, Inc. since 2007 and continues in the employment. The employer suspended the claimant for one and one-half days on December 18 and 19, 2014 for falsification of trailer inspection documents. The claimant had completed the inspection documents prior to inspecting the trailers in violation of the employer's established procedures. The claimant returned to work following the suspension. The claimant established a claim for unemployment insurance benefits but has not received any benefits in connection with the claim.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv., 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

While past acts and warnings can be used to determine the magnitude of the current act of misconduct, a discharge for misconduct cannot be based on such past act(s). The termination of employment must be based on a current act. See 871 IAC 24.32(8). In determining whether the conduct that prompted the discharge constituted a "current act," the administrative law judge considers the date on which the conduct came to the attention of the employer and the date on which the employer notified the claimant that the conduct subjected the claimant to possible discharge. See also Greene v. EAB, 426 N.W.2d 659, 662 (Iowa App. 1988).

Iowa Administrative Code section 871 IAC 24.32(9) provides as follows:

Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

The evidence in the record establishes misconduct in connection with the employment based on the premature drafting of inspection reports. The claimant is disqualified for benefits for the period of the suspension. See FDL Foods vs. EAB, 456 N.W.2d 233 (Iowa Ct. App. 1990) (disqualification applicable to suspensions for misconduct is confined to the period of the suspension). The employer's account had not and will not be charged for benefits paid to the claimant for the period of the December 18 and 19, 2014 suspension.

Because the claimant has not received any benefits in connection with the claim, there is no overpayment of benefits to address.

**DECISION:**

The January 13, 2015, reference 01, decision is reversed. The claimant is disqualified for benefits for the period of the suspension. The employer's account had not and will not be charged for benefits paid to the claimant for the period of the December 18 and 19, 2014 suspension.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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