

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Website: eab.iowa.gov**

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**BRENT J KOFRON**

Claimant

and

**TYSON FRESH MEATS INC**

Employer

: **APPEAL NUMBER:** 24B-UI-12182

: **ALJ HEARING NUMBER:** 23A-UI-12182

:

: **EMPLOYMENT APPEAL BOARD**

:

**DECISION**

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**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.5-2 96.3-7

**DECISION**

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

**FINDINGS OF FACT:**

The Administrative Law Judge's findings of fact are adopted by the Board as its own. The Board makes the following additional findings.

At the time the fact finding was held Iowa Workforce contacted the Employer's representative "Janice W." This person told the fact finder that the Employer had supplied the requisite information in the SIDES. There had been no such information in SIDES, and the fact finder told Janice W. this. The fact-finder requested copies of documentation by 12/18/23. Janice W stated that she was faxing the information. The information was not faxed by December 18, and the decision allowing benefits was issued the next day.

## REASONING AND CONCLUSIONS OF LAW:

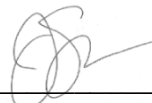
As an initial matter we make clear that the Claimant was disqualified based on the separation from employment, and that **the disqualification decision still stands**. The Board thus adopts as its own all of the Administrative Law Judge's conclusions of law except for the last three sentences. In lieu of these sentences the Board makes the following Reasoning and Conclusions of Law.

The regulation provides that "if no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal." 871 IAC 24.10(1). The Employer provided the phone number of a representative. This number was called, but the person who answered stated that the Employer would rely on the SIDES submission. There was no information in the SIDES submission, the Employer representative was told this, and then was given a deadline to submit the information. The deadline was four days after the interview, (which period included a weekend). The Employer did not fax the information by the deadline despite telling the fact-finder that it would do so. Under these circumstances we cannot find participation, and the Employer is charged the \$582.00 overpayment.

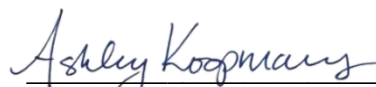
## DECISION:

The administrative law judge's decision dated January 24, 2024 is **AFFIRMED ON THE ISSUE OF DISQUALIFICATION FROM BENEFITS**. We affirm the decision that the Claimant was discharged from employment due to job-related misconduct. As a result, benefits are withheld until such time as the Claimant has worked in and been paid wages for insured work equal to ten times Claimant's weekly benefit amount, provided Claimant is otherwise eligible.

The administrative law judge's decision dated January 24, 2024 is **REVERSED ON THE ISSUE OF OVERPAYMENT CHARGING**. The overpayment caused by the decision of the Administrative Law Judge (\$582.00) is **not** chargeable to the Claimant but rather is **chargeable to the Employer**. The Claimant is relieved of the responsibility to pay back the overpayment caused by the Administrative Law Judge's reversal of the allowance of benefits, and the Employer's account is subject to be charged for these overpaid benefits.



James M. Strohman



Ashley R. Koopmans



Myron R. Linn