

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MANUEL MAGANA GARCIA
Claimant

APPEAL NO. 11A-UI-07825-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT PORK COMPANY
Employer

OC: 05/01/11
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Manuel Magana-Garcia filed a timely appeal from an unemployment insurance decision dated June 7, 2011, reference 01, that disqualified him for benefits. Due notice was issued for a telephone hearing to be held July 11, 2011. The claimant did not respond to the hearing notice by providing a telephone number at which he could be contacted. This decision is based on information submitted for the fact-finding interview.

ISSUE:

Was the claimant discharged for misconduct?

FINDINGS OF FACT:

Manuel Magana-Garcia was employed by Swift Pork Company from January 27, 2009 until he was discharged August 15, 2010. He last performed services for the company on August 2, 2010. Mr. Magana-Garcia's work authorization expired. It would have been unlawful for the employer to allow the claimant to continue working without this documentation.

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.

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.

The evidence in the record establishes that the claimant was discharged for failing to produce documentation establishing continued eligibility to work in the United States. Since this is a matter of personal responsibility, the administrative law judge concludes that the separation was a disqualifying event.

DECISION:

The unemployment insurance decision dated June 7, 2011, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs