

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 – EI

**MICHAEL T HARLAND**  
Claimant

**APPEAL NO: 08A-UI-01654-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**  
Employer

**OC: 01/06/08 R: 03**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Michael T. Harland (claimant) appealed a representative's February 14, 2008 decision (reference 03) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Cargill Meat Solutions Corporation (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 4, 2008. The claimant participated in the hearing. The employer responded to the hearing but was not available at the time of the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on April 22, 2007. The claimant worked full-time. The claimant understood the employer did not allow cell phones in certain areas, such as the restrooms. The claimant also understood the employer used progressive discipline when an employee did not follow directions.

Prior to December 20, 2007, the claimant's job was not in jeopardy. On December 20, 2007, the claimant was in the restroom and looked at his cell phone to see what time it was or when he needed to return to work. The restroom does not have a clock. A supervisor saw the claimant put his cell phone in his pocket and asked the claimant to hand over his phone. The claimant declined to give the supervisor his phone. When the supervisor then asked for the claimant's work ID, the claimant declined to hand over his ID. The claimant went back to his work station and worked that day, the 21 and 22. No one said anything to the claimant about this incident.

On December 26, the employer discharged the claimant because he failed to follow a supervisor's directions in giving the supervisor his cell phone or ID. The claimant grieved his

discharge because the employer discharged him instead of giving him a three-day suspension. Also, the handbook does not inform employees that they must hand over their cell phones or ID to supervisors.

### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer may have had business reasons for discharging the claimant. Without the employer present to explain why the claimant was discharged instead of being suspended for the December 20 incident, the evidence does not establish that the claimant committed work-connected misconduct. Therefore, as of January 6, 2008, the claimant is qualified to receive unemployment insurance benefits.

### **DECISION:**

The representative's February 14, 2008 decision (reference 03) is reversed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of January 6, 2008, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs