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

BRIAN D PESHEL
Claimant

APPEAL NO. 12O-UI-12029-S2T

ADMINISTRATIVE LAW JUDGE DECISION

SWIFT PORK COMPANY
Employer

OC: 02/05/12
Claimant: Respondent (2-R)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Swift Pork Company (employer) appealed a representative's May 1, 2012 decision (reference 04) that concluded Brian Peshel (claimant) was discharged and there was no evidence of willful or deliberate misconduct. Administrative Law Judge Debra Wise issued a decision on July 6, 2012, reversing the representative's decision. A decision of remand was issued by the Employment Appeal Board on October 5, 2012. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 1, 2012. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Javier Sanchez, Human Resources Assistant Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The Finding of Fact of the administrative law judge in appeal 12A-UI-05299-DWT are adopted and incorporated herein as if set forth at length.

REASONING AND CONCLUSIONS OF LAW:

The Reasoning and Conclusions of Law of the administrative law judge in appeal 12A-UI-05299-DWT are adopted and incorporated herein as if set forth at length.

DECISION:

The representative's May 1, 2012 decision (reference 04) is reversed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The issue of the overpayment is remanded for determination.

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Beth A. Scheetz
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs