

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HUGO M ADAME**  
Claimant

**APPEAL NO. 07A-UI-08362-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FARMLAND FOODS INC**  
Employer

**OC: 07/29/07 R: 01  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Hugo Adame filed an appeal from a representative's decision dated August 22, 2007, reference 01, which denied benefits based on his separation from Farmland Foods, Inc. After due notice was issued, a hearing was held by telephone on September 18, 2007. Mr. Adame participated personally. The employer participated by Becky Jacobsen, Human Resources Manager.

**ISSUE:**

At issue in this matter is whether Mr. Adame was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Adame began working for Farmland Foods, Inc. on July 25, 2001 as a full-time production worker. His last day of work was June 4, 2007. He was off work thereafter on a medical leave of absence. He saw his doctor on July 16 and was asked if he was ready to return to work. Mr. Adame indicated he was and was released to return to work on July 17.

Mr. Adame did not return to work on July 17 but called to report that he would be absent due to illness. He continued to call in each day until July 25 when he returned to work. He did not have additional medical treatment after July 16. Because there was no doctor's note excusing him from work for the period beginning July 17, Mr. Adame was discharged. He had received warnings concerning his attendance on February 26 and May 14, 2007. He had been late reporting to work on five occasions in 2007, the last of which was May 25 when he was over two hours late. All of his remaining absences prior to July 17 were due to illness.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had

the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences. The absences that prompted Mr. Adame's discharge began on July 17, 2007. He had been released by his doctor to return to work after being on medical leave for six weeks.

Mr. Adame did not return to work until over one week after his doctor indicated he could return. Inasmuch as his doctor had released him to return, it was not unreasonable for the employer to require documentation of the need to be gone an additional week after he was released. Mr. Adame contended that he was ill after July 17 due to a gas leak in his home. He did not provide any documentation of the gas leak or the fact that he was ill from exposure to escaping gas. The administrative law judge is not satisfied that the gas leak existed for a week.

Mr. Adame had received warnings regarding his attendance. Therefore, he knew his continued employment was in jeopardy. His conduct in remaining off work an additional week without excuse after being released by his doctor constituted a substantial disregard of the standards the employer had the right to expect. For the reasons stated herein, it is concluded that disqualifying misconduct has been established by the evidence. Accordingly, benefits are denied.

**DECISION:**

The representative's decision dated August 22, 2007, reference 01, is hereby affirmed. Mr. Adame was discharged by Farmland Foods, Inc. for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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