IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

LUCAS D GARLAND
Claimant

CARGILL MEAT SOLUTIONS CORP
Employer

APPEAL NO. 08A-UI-07819-CT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 08/03/08 R: 12
Claimant: Appellant (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Lucas Garland filed an appeal from a representative's decision dated August 25, 2008, reference 01, which denied benefits based on his separation from Cargill Meat Solutions Corporation (Cargill). After due notice was issued, a hearing was held by telephone on September 15, 2008. Mr. Garland participated personally. The employer participated by Sarah James, Human Resources.

ISSUE:

At issue in this matter is whether Mr. Garland 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. Garland was employed by Cargill from January 28, 1991 until August 8, 2008. He was employed full time in maintenance. He was discharged based on an allegation that he refused to follow instructions from a supervisor.

On Friday, August 1, Mr. Garland was instructed to work on a belly injector. He was told that any work he failed to complete would be completed by another worker during the weekend. When he reported to work at 5:00 a.m. on Monday, August 4, the third shift supervisor requested that Mr. Garland complete work on the belly injector. He replied that he was not going to "fucking" do it because it was supposed to have been completed by someone else over the prior weekend. The supervisor told him it had not been completed and, therefore, he would have to finish the work. Mr. Garland again responded that he was not going to do it. He indicated he had to complete other tasks that were necessary in order for others to begin their jobs. Mr. Garland did work on the belly injector and had done so by 6:30 a.m. He completed his shift for the day.

Mr. Garland was suspended from work on August 5 and notified of his discharge on August 8, 2008. The last disciplinary action prior to discharge was on May 27, 2004, when he received a

verbal warning for being disrespectful to coworkers. Prior to that, he had last received a written warning on November 12, 2002 for using abusive language.

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). The final incident that prompted Mr. Garland's discharge was his refusal to work on the belly injector when directed to do so. He did refuse to perform the task initially because he had been told someone else would complete the work. Although his initial refusal was accompanied by the word "fucking," it was not used in a name-calling context. A meat packing facility is not one where decorous language is the norm.

When Mr. Garland was asked a second time to work on the belly injector, he indicated he would work on it at a later time because he felt other duties were a priority. It was within the supervisor's authority to alter the priority of Mr. Garland's work. However, he had a good-faith belief that performing tasks necessary for production lines to operate was a priority. He did, in fact, perform the work on the belly injector within the first two hours of his shift on August 4. At most, Mr. Garland's actions on August 4 represented balky and argumentative conduct. He had not been disciplined for any matter for over four years. Given the time lapse since his prior discipline, the administrative law judge is inclined to view his conduct of August 4 as an isolated instance of poor judgment. Conduct so characterized is not considered deliberate and intentional misconduct. See 871 IAC 24.32(1).

For the reasons cited herein, it is concluded that the employer failed to satisfy its burden of proving substantial misconduct. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). Benefits are allowed.

DECISION:

The representative's decision dated August 25, 2008, reference 01, is hereby reversed. Mr. Garland was discharged by Cargill, but disqualifying misconduct has not been established. Benefits are allowed, 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

cfc/kjw