

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EARNESHA R BELL**

Claimant

**APPEAL NO. 07A-UI-09305-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**

Employer

**OC: 09/02/07 R: 03  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Earnesha Bell filed an appeal from a representative's decision dated October 1, 2007, reference 01, which denied benefits based on her separation from Tyson Fresh Meats, Inc. After due notice was issued, a hearing was held by telephone on October 16, 2007. The employer participated by Randy Schultz, Human Resources Manager, and Elena Reader, Human Resources Representative. Ms. Bell participated in the bulk of the hearing. Her cell phone battery was dying and she was in the process of giving the administrative law judge an alternative telephone number when the phone died before the hearing was over. She did not call the Appeals Bureau to provide a telephone number where she could be reached to continue participating in the hearing.

**ISSUE:**

At issue in this matter is whether Ms. Bell 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: Ms. Bell was employed by Tyson Fresh Meats, Inc. from August 15, 2006 until September 8, 2007. She worked from 28 to 30 hours each week in production. She was suspended from work on September 5, 2007 because of an altercation with a coworker, who happens to be the father of her child. The two had been arguing on the production floor and were told by a supervisor to stop. The argument picked up again and Ms. Bell was observed striking the coworker with the knife she used in her work. She was suspended and told to return on September 7 to learn of her employment status.

Ms. Bell was notified on September 7 that she was discharged as a result of the incident of September 5. The coworker with whom she was arguing was not discharged, only disciplined. Ms. Bell was discharged rather than disciplined because she used her knife during the argument. The above matter was the sole reason for the discharge.

**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). Ms. Bell was discharged because she struck a coworker with her knife during the course of an argument. Her conduct had the potential of causing serious injury. Although the coworker was not injured, the fact remains that her conduct was contrary to the type of behavior the employer had the right to expect. Her use of the knife escalated what was an incident of poor judgment into an act of misconduct.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that disqualifying misconduct has been established by the evidence. Accordingly, benefits are denied.

**DECISION:**

The representative's decision dated October 1, 2007, reference 01, is hereby affirmed. Ms. Bell was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she 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/pjs