

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JORGE MADUENO**

Claimant

**APPEAL NO: 11A-UI-01342-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**

Employer

**OC: 11/14/10**

**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a representative's February 1, 2011 determination (reference 01) that disqualified the claimant from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Ben Wise, a hiring supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer on April 12, 2010. When he was hired, the employer told him about the employer's drug and alcohol policy. Specifically, the employer's policy informs employees they will be asked to submit to a drug test if they are involved in an accident that results in an injury. Also, if an employee refuses to take a requested drug test, the employer discharges the employee for violating the drug and alcohol policy.

On November 9, the claimant was involved in an accident at work that resulted in an injury. The employer asked the claimant to take a drug test. Instead of taking the drug test, the claimant left the employer's facility. When the claimant walked out, the employer considered him discharged for refusing to take a drug test or for violating the employer's drug and alcohol policy.

**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 § 96.5(2)a. 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 discharged the claimant for work-connected misconduct, violating the employer's drug and alcohol policy by refusing to take a requested test. As of November 14, 2010, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's February 1, 2011 determination (reference 01) is affirmed. The employer discharged the claimant for reasons consisting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of November 14, 2010. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs