

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JESSENIA L FARIAS DE VASCO**  
Claimant

**APPEAL NO. 10A-UI-02654-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JOHN MORRELL & COMPANY**  
Employer

**OC: 01/10/10**  
**Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Jessenia Farias de Vasco filed an appeal from a representative's decision dated February 11, 2010, reference 01, which denied benefits based on her separation from John Morrell & Company (Morrell). After due notice was issued, a hearing was held by telephone on April 7, 2010. Ms. Farias de Vasco participated personally and was represented by Dennis McElwain, Attorney at Law. Anna Pottebaum participated as the interpreter. The employer opted not to participate.

**ISSUE:**

At issue in this matter is whether Ms. Farias de Vasco was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Farias de Vasco was employed by Morrell from August 28 until December 22, 2009 as a full-time production worker. She was discharged because she could not meet the employer's production standards. She was at all times working to the best of her abilities and in the manner she was trained.

**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. Farias de Vasco was discharged because her job performance was unsatisfactory. There was no evidence that she was not actively working during all working hours. Nor was there any evidence that she was not putting forth her best efforts. In short, there was no evidence that she deliberately and intentionally failed to perform to the employer's standards in spite of having the ability to do so.

After considering all of the evidence, the administrative law judge concludes that the employer has failed to satisfy its burden of proving disqualifying misconduct. Accordingly, benefits are allowed.

**DECISION:**

The representative's decision dated February 11, 2010, reference 01, is hereby reversed. Ms. Farias de Vasco was discharged by Morrell but disqualifying misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css