

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ASHENAFI A BELACHWE**  
Claimant

**APPEAL NO: 14A-UI-09635-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**  
Employer

**OC: 08/17/14**  
**Claimant: Respondent (1)**

Iowa Code § 06.5(2)a – Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's September 8, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because he had been discharged for non-disqualifying reasons. The claimant responded to the hearing notice, but was not available for the October 23, 2014 hearing. A message was left for him to contact the Appeals Bureau. Michael Berhane, the interpreter, interpreted the administrative law judge's message.

On October 22 at 4:30 p.m. the administrative law judge received the employer representative's, Barnett Associates, request to continue the October 23 hearing because a witness was not available. On October 23, before 8 a.m. CDT, the administrative law judge called the Barnett Associate representative. A message was left informing the representative the request continuance was denied because postponement request was not timely. Also, the witness who had jury duty only had information concerning the employer's participation at the fact-finding interview. There was no reason to postpone the hearing concerning the reasons for the claimant's employment separation.

When the employer's representative, Kelley Landolphi, was called for the hearing, he did not have anyone available to testify at the hearing. He understood the witness who was to testify about the reasons for the claimant's separation had been told by the employer's representative that the hearing was postponed. Since the claimant was not available for the hearing and the employer had a representative at the hearing, the administrative law judge informed Landolphi a decision would be made based on information in the administrative record.

Based on the administrative record and the law, the administrative law judge concludes the claimant is 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 in November 2013. When the claimant started his employment, he received a copy of the employer policies. One rule informs employees they can be discharged the first time they fail to carry out an instruction as directed or refuse to do a job.

On April 3, 2014 the claimant received a verbal warning for unsatisfactory work performance. On August 6, 2014 the employer discharged the claimant for failing to keep the line running. The claimant did not believe it was his fault that the line stopped running.

The claimant established a claim for benefits during the week of August 17, 2014. He has filed claims for the weeks ending August 23 through October 18, 2014. He received his maximum weekly benefit amount of \$416 for each of these weeks.

**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. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The administrative record indicates the employer discharged the claimant, but the record does not establish that the claimant committed work-connected misconduct. As of August 17, 2014 the claimant is qualified to receive benefits.

**DECISION:**

The representative's September 8, 2014 determination (reference 01) is affirmed. The employer discharged the claimant, but the administrative record does not establish that the employer discharged the claimant for work-connected misconduct. As of August 17, 2014 the claimant is qualified to receive benefits. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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