

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KPAKOLO COOPER**  
Claimant

**APPEAL NO. 09A-EUCU-00510-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 12/28/08**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Kpakolo Cooper filed an appeal from a representative's decision dated December 3, 2009, reference 02, which denied benefits based on his separation from Tyson Fresh Meats, Inc. (Tyson). After due notice was issued, a hearing was held by telephone on March 16, 2010. Mr. Cooper participated personally. The employer participated by Kris Travis, Employment Manager. Laura Solo participated as the interpreter.

**ISSUE:**

At issue in this matter is whether Mr. Cooper 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: Mr. Cooper worked for Tyson on November 3 and 4, 2009. He was hired to work full time as a laborer in production. As part of the hiring process, he was required to present proof that he was legally authorized to work in the United States. It was noted that there was a discrepancy in the way his first name was spelled on two of the documents he submitted to the employer.

Mr. Cooper was told on November 3 that he had three days in which to provide corrected documents or proof that he was in the process or having the correction made. He was told he could take time from work to handle the matter. He did not go to the Social Security Administration (SSA) offices to try to resolve the matter until November 5. On November 5, SSA notified the employer that it could not provide proof that the matter was being resolved because Mr. Cooper failed to bring his immigration paperwork with him. Because he did not provide full and adequate proof that he was authorized to work in the United States during the three days allowed, the employer was prohibited from continuing Mr. Cooper's employment.

**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). Where an individual's own actions render him unemployable by his employer, he is guilty of misconduct within the meaning of the law. See, e.g., Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980).

In the case at hand, Mr. Cooper knew he had only three days in which to provide proof that he had corrected the spelling in his name or that he was in the process of doing so. He also knew the employer would allow him to take time from work to take care of the matter. Instead, he did not make any real attempt to get things straightened out until November 5, the date by which he was to have the matter resolved or lose his job. If he had gone to SSA on the first day, he would have learned what further documentation was needed and could have returned with those documents on the second day.

If Mr. Cooper had taken steps sooner, it seems more likely than not that he would have been able to resolve the issue during the three days or could have received proof that the matter was being corrected. As it turned out, the process of making the change had not even started on November 5 because Mr. Cooper did not take the correct paperwork with him to SSA. Because he did not take immediate and timely steps to correct the discrepancy in the spelling of his name, the employer had no choice but to end his employment. To do otherwise could have subjected Tyson to sanctions from the immigration authorities.

**DECISION:**

The representative's decision dated December 3, 2009, reference 02, is hereby affirmed. Mr. Cooper was discharged by Tyson for misconduct. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs