

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL BATES**  
Claimant

**APPEAL NO. 10A-UI-09665-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 06-06-10**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 1, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 26, 2010. The claimant did participate. The employer did participate through Will Sager, Complex Human Resources Manager. Employer's Exhibit One was entered and received into the record.

**ISSUE:**

Was the claimant discharged due to job related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a warehouse worker full time beginning August 19, 2008 through June 8, 2010 when he was discharged.

On Friday June 4, the claimant switched the labels on six boxes of meat that the USDA wanted to re-inspect for possible contamination. The claimant admitted to his supervisor that he had done so and also wrote a statement indicating to the employer that he had switched the labels because the boxes were buried deep on a pallet and because he did not want to have the line shut down and because he was in a hurry. By making the switch the claimant could have sent contaminated meat out of the plant for the public to consume and could have caused physical harm to someone. The claimant changed his story at the hearing from his statement given to the employer on June 4, 2010 when the event was discovered. The claimant was discharged because he switched labels improperly. The claimant admitted in his own statement that he was sorry for his behavior and that what he did was wrong.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

The claimant's admission in the statement he gave to the employer admits that he improperly switched the labels and indicates he knew his conduct was not in the employer's best interest. The USDA could have shut down the employer processing plant or contaminated meat could have been sent out for public consumption. Claimant's failure to accurately perform his job duties when such serious consequences could have resulted is evidence of carelessness to such a degree as to rise to the level of disqualifying job related misconduct. Benefits are denied.

**DECISION:**

The July 1, 2010 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs