

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KYLE A PALMER

Claimant

APPEAL NO. 11A-UI-00842-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

OC: 06/06/10

Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 14, 2011, reference 02, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on February 21, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer from December 2007 to June 5, 2010, when he was off work due to a hand injury. He returned to work in August 2010 and worked until December 15, 2010. After December 15, the claimant was off work with a doctor's excuse because of nasal and respiratory problems. He returned to work with a doctor's release on December 21, 2010. He was informed that his request for leave under the Family and Medical Leave Act (FMLA) was denied and he was discharged for having too many attendance points. The claimant properly notified the employer regarding his absences.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. The claimant's absences were due to legitimate illness, and he properly notified the employer about his absences.

DECISION:

The unemployment insurance decision dated January 14, 2011, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css