

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LARRY W MONEY**  
Claimant

**APPEAL NO. 08A-UI-04588-C**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**  
Employer

**OC: 04/13/08 R: 03**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Larry Money filed an appeal from a representative's decision dated May 8, 2008, reference 01, which denied benefits based on his separation from Cargill Meat Solutions Corporation (Cargill). After due notice was issued, a hearing was held on August 5, 2008, in Ottumwa, Iowa. Mr. Money participated personally. The employer participated by Jordan Weber, Human Resources Assistant.

**ISSUE:**

At issue in this matter is whether Mr. Money was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Money was employed by Cargill from August 21, 2007, until April 11, 2008, as a full-time production worker. He was presumed to have quit after he was absent three days without notice, in violation of a known company rule.

Mr. Money's last day at work was April 11. He was arrested after work and charged with criminal trespass. He called the employer approximately seven minutes after the start of his 5:00 a.m. shift on April 12. He left a voice message that he was unable to make it to work until further notice. He contacted the employer after he was released from jail on April 17, but his job was no longer available. He did not have any contact with the employer during the interim between April 12 and April 17. Mr. Money's late call on April 12 was considered a "no call/no show," as were his unreported absences of April 14 and 15. The employer's policy, of which Mr. Money was aware, provides that three consecutive unreported absences will be considered a voluntary quit. He had previously been absent without notice on April 4, 2008, and received his final written warning regarding attendance as a result.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Money became separated from Cargill pursuant to a work rule that considers three consecutive unreported absences to be a voluntary quit. Mr. Money did not call the employer on April 14, 15, or 16, 2008. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). An individual who is absent without notice for three days, in violation of a known rule, is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(4).

Mr. Money contended that he was not at fault with respect to his incarceration after April 12. He contended that, but for an error on the part of the jailer, he could have bonded out of jail on April 12 and not have been absent after that date. He indicated the issue was whether he had served the required time on an OWI charge in June of 2007. He did not present any evidence to establish that his stay in jail after April 12 was beyond his control. He did not present any court documents or a statement from the attorney representing him at the time. Without some type of documentation, the administrative law judge is not inclined to believe it took the system five days (April 12 to April 17) to confirm whether he had satisfied the requirements of the prior charge.

Even if the administrative law judge were to conclude that Mr. Money did not quit but was discharged, he still would not be entitled to job insurance benefits. 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). An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences.

Mr. Money had been warned about his attendance and, therefore, knew or should have known that his continued employment was in jeopardy. He missed at least three days of work due to his incarceration. Absences due to personal matters, such as incarceration, are not excused. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Mr. Money was last warned about his attendance on April 4, 2008, after he was absent without notice. The administrative law judge concludes that his three unexcused absences (April 12, 14, 15), following the warning, constituted excessive unexcused absenteeism. Even if the administrative law judge only considered the absence of April 12, excessive unexcused absenteeism would still be established. The absence of April 12 was just one week after his unreported absence of April 4. Two unexcused absences within a one-week period are excessive in light of the verbal warning regarding attendance on February 29, 2008.

For the reason stated herein, the administrative law judge concludes that Mr. Money is not entitled to job insurance benefits.

**DECISION:**

The representative's decision dated May 8, 2008, reference 01, is hereby affirmed. Mr. Money left his employment with Cargill for no good cause attributable to the employer. Alternatively, he was discharged for disqualifying 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw