

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GARANG C ANYIETH**  
Claimant

**APPEAL NO. 09O-UI-00370-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FARMLAND FOODS INC**  
Employer

**OC: 09/21/08 R: 02  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Garang Anyieth filed an appeal from a representative's decision dated November 5, 2008, reference 03, which denied benefits based on his separation from Farmland Foods, Inc. After due notice was issued, a hearing was held by telephone on December 4, 2008. The December 5, 2008 decision of the administrative law judge affirmed the disqualification. Mr. Anyieth filed a further appeal with the Employment Appeal Board which, on January 6, 2009, remanded the matter for a new hearing on a finding that Mr. Anyieth had not received timely notice of the hearing.

Pursuant to the Employment Appeal Board's remand, due notice was issued scheduling a telephone hearing on January 26, 2009. Mr. Anyieth participated personally. The employer participated by Brandy Andrews, Assistant Human Resources Manager.

**ISSUE:**

At issue in this matter is whether Mr. Anyieth 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. Anyieth was employed by Farmland Foods, Inc. from March 6 until September 23, 2008 as a full-time production worker. He was discharged for fighting on the job in violation of a known work rule. The fight occurred on September 19 between Mr. Anyieth and Gershon Santiago. Both parties were discharged as a result of the altercation.

Mr. Anyieth and Mr. Santiago were both working on the kill floor when a dispute arose between them concerning the division of work. Three witnesses to the incident told the employer that Mr. Anyieth threw the first punch. A member of management witnessed the two exchanging blows. Mr. Anyieth had received a copy of the employer's policies on March 5, 2008. The above matter was the sole reason for the discharge on September 23, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Anyieth was discharged from his job with Farmland Foods, Inc. 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). Mr. Anyieth was discharged for fighting on the job in violation of a known work rule. Although he denied starting the fight, three witnesses told the employer he struck Mr. Santiago first. Mr. Anyieth escalated what was only an argument into a physical altercation.

The fact that Mr. Anyieth may have had prior difficulties with Mr. Santiago was not justification for initiating a physical altercation with him. If there was a work-related dispute, his recourse was to seek the involvement of a supervisor to resolve the dispute. Fighting on the job is contrary to the type of behavior any employer has the right to expect. When it occurs in a meat-packing environment where there are sharp and dangerous tools, it is a substantial disregard of the standards the employer has the right to expect. A physical altercation in such a setting could result in serious injury.

For the reasons stated herein, it is concluded that disqualifying misconduct has been established. Accordingly, benefits are denied.

**DECISION:**

The representative's decision dated November 5, 2008, reference 03, is hereby affirmed. Mr. Anyieth was discharged for misconduct in connection with his employment. Benefits are withheld until 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/pjs