

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMI A MCNABB

Claimant

APPEAL NO. 07A-UI-05449-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

**OC: 04/29/07 R: 03
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct
Section 96.3*7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Cargill Meat Solutions Corporation (Cargill) filed an appeal from a representative's decision dated May 15, 2007, reference 01, which held that no disqualification would be imposed regarding Jami McNabb's separation from employment. After due notice was issued, a hearing was held by telephone on June 29, 2007. The employer participated by Melissa Skinner, Assistant Human Resources Manager, and Stephanie Paxton, Assistant Health Services Manager. The administrative law judge attempted to reach Ms. McNabb at the number she left when she called to have the hearing rescheduled. She did not respond to a voice message left for her at that number and did not provide any other number to be called for the hearing.

ISSUE:

At issue in this matter is whether Ms. McNabb 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: Ms. McNabb was employed by Cargill from June 8, 2006 until May 1, 2007 as a full-time production worker. She was discharged for leaving the premises without permission on April 23. She returned to work on April 30. The employer met with her on May 1 concerning her unauthorized departure on April 23. Ms. McNabb told the employer that she told her supervisor she was going to the restroom but went to the nurse's station instead. She indicated she went home after leaving the nurse's station. The employer checked records from health services and could find no documentation that Ms. McNabb was seen there on April 23. Therefore, she was discharged for leaving work early without permission.

Ms. McNabb filed a claim for job insurance benefits effective April 29, 2007. She has received a total of \$2,480.00 in benefits since filing her claim.

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). Ms. McNabb was discharged for walking off the job on April 23, 2007. It is reasonable for an employer to expect employees to remain at work unless given permission to leave. Ms. McNabb violated the employer's standards when she left work without permission. She did not participate in the hearing to establish that leaving without permission was justified or excusable. Walking off the job constitutes a substantial disregard for the employer's standards and is, therefore, misconduct within the meaning of the law.

Ms. McNabb has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated May 15, 2007, reference 01, is hereby reversed. Ms. McNabb was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. McNabb has been overpaid \$2,480.00 in job insurance benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs