

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYLER M O'LEARY
Claimant

APPEAL NO. 07A-UI-08990-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 07/22/07 R: 03
Claimant: Respondent (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Cargill Meat Solutions Corporation (Cargill) filed an appeal from a representative's decision dated September 10, 2007, reference 02, which held that no disqualification would be imposed regarding Tyler O'Leary's separation from employment. After due notice was issued, a hearing was held by telephone on October 8, 2007. The employer participated by Melissa Skinner, Assistant Human Resources Manager. Mr. O'Leary did not respond to the notice of hearing.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. O'Leary was employed by Cargill from May 24 until June 26, 2007 as a full-time production worker. His discharge was prompted by the fact that he walked off the job on June 25. He was scheduled to work from 2:30 until 11:00 p.m. He left at 6:03 p.m. without notifying a supervisor.

The employer's policies, of which Mr. O'Leary was aware, provide for discharge if an individual leaves the work premises without permission during the work shift. When he returned to work on June 26, Mr. O'Leary was discharged.

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). Mr. O'Leary was discharged for leaving work without permission on June 25 in violation of a known work rule. An employer has the right to expect employees to remain at their designated worksite unless permission is given to leave early. An employer

cannot adequately plan and cover production if employees simply walk off the job without notice.

The administrative law judge concludes that Mr. O'Leary was discharged for substantial misconduct. Accordingly, benefits are denied. He has not received benefits since filing his claim effective July 22, 2007. Therefore, there is no overpayment resulting from this reversal of the prior allowance.

DECISION:

The representative's decision dated September 10, 2007, reference 02, is hereby reversed. Mr. O'Leary was discharged by Cargill for misconduct in connection with his employment. 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.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css