

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTONIO GARCIA-VALDERRA
Claimant

APPEAL NO. 06A-UI-10598-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 09/24/06 R: 03
Claimant: Respondent (2)

Section 96.5-2-a – Discharge for Misconduct
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 19, 2006, reference 01, that concluded the claimant was eligible for benefits. A telephone hearing was held on November 14, 2006. The parties were properly notified about the hearing. The claimant did not participate in the hearing. Ms. Erica Bleck participated in the hearing on behalf of the employer.

ISSUE:

At issue is whether the claimant was separated for any disqualifying reason and whether the claimant was overpaid benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all the evidence in the record finds: The claimant was employed by this employer from March 28, 2000 until September 19, 2006 when he was discharged for refusing to follow a work directive from company management. The claimant was paid by the hour and his supervisor was Keith Menessee.

On September 19, 2006, the claimant was instructed to cut off a shoulder portion of a hog that was abscessed and delaying production. The claimant refused and walked off the production area. He was discharged for his refusal to follow a work directive given by management.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The administrative law judge holds that the evidence in the record establishes that the claimant was discharged for misconduct in connection with his work. The claimant willfully refused to follow a reasonable and work-related directive that was given to him by a company supervisor. His refusal caused production to stop and was in willful disregard of his employer's interests and the standards of behavior that the company had a right to expect from its employees under the provisions of the Iowa Employment Security Law.

The administrative law judge holds that the claimant is overpaid unemployment insurance benefits in the amount of \$ 2,653.00 pursuant to Iowa Code section 96.3-7 because a decision has determined the claimant is ineligible to receive unemployment insurance benefits due to a discharge of misconduct in connection with his work.

The claim shall be locked until the claimant has requalified or is otherwise eligible.

DECISION:

The unemployment insurance decision dated October 19, 2006, reference 01, is reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages in insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Claimant is overpaid benefits in the amount of \$2,653.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tpn/cs