

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY L CODDINGTON
Claimant

APPEAL NO: 07A-UI-08161-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 08/13/07 R: 01
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

Tyson Fresh Meats, Inc. (employer) appealed a representative's August 13, 2007 decision (reference 01) that concluded Terry L. Coddington (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 11, 2007. The claimant participated in the hearing. Michael Lefevre, the plant manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reason that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on July 18, 2006. The claimant worked full time. Prior to March 27, when the claimant could not work as scheduled, he contacted the employer.

The last day the claimant worked was March 21, 2007. The employer excused the claimant for a funeral on March 22, 23, and 26. The employer expected the claimant back to work on March 27.

When an employer discharges an employee, the employee is brought to the office, the employer does an exit interview, the employer obtains the employee's ID badge and the employee is taken to a locker to remove personal property. The employer did not do this with the claimant because the claimant did not report back to work.

The employer's records indicate the claimant did not call or report to work on March 27, 28, 29 or 30. The employer considered the claimant to have abandoned his employment and no longer considered him an employee as of March 30, 2007.

The claimant established a claim for unemployment insurance benefits during the week of July 8, 2007. He filed claims for the weeks ending July 14 through September 1, 2007. He received his maximum weekly benefit amount of \$225.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a.

The claimant asserted the employer discharged him on March 26 when a supervisor told him he no longer had a job. The claimant's testimony is not credible. If the claimant knew he had been excused to go to a funeral and returned to work on the day the employer scheduled him to return to work, the claimant failed to take reasonable steps to continue his employment or even find out why he had been discharged. The more logical explanation is that the claimant returned to work sometime after March 30 and was told he no longer had a job.

A preponderance of the credible evidence indicates the employer discharged the claimant for excessive, unexcused absenteeism on March 27 through 30, 2007. The claimant's failure to report to work or contact the employer on these days amounts to an intentional and substantial disregard of the employer's interests. The employer discharged the claimant for work-connected misconduct. As of July 8, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending July 14 through September 1, 2007. The claimant has been overpaid \$1,800.00 he received for these weeks.

DECISION:

The representative's August 13, 2007 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of July 8, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured

work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending July 14 through September 1, 2007. The claimant has been overpaid and must repay a total of \$1,800.00 in benefits he received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs