

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD C HAYES**  
Claimant

**APPEAL NO. 10A-UI-00578-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**  
Employer

**Original Claim: 12/13/09  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed a representative's January 6, 2010 decision (reference 01) that concluded the claimant was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for non-disqualifying reasons. A telephone hearing was held on February 24, 2010. The claimant participated in the hearing with a union representative, Brian Uling. Jessica Sheppard, a human resource associate, 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.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on January 19, 2009. The claimant worked as a full-time production employee.

On December 5, the claimant understood that when the last hog or piece of meat came down the production line, he could leave and go home. The claimant was in the restroom when the supervisor, Daniel Whistler, went to employees and told them they had to stay and work after the last hog came down the line. Whistler did not tell this to the claimant. When the last hog came by the claimant, he left work. No one said anything to the claimant when he left work on December 5, 2009.

Other employees stayed and worked another 20 to 30 minutes to get some rework done. On December 7, the employer discharged the claimant because he left work early without his supervisor's permission. Leaving work without permission is considered a Class D violation and subjects an employee to immediate termination.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good-faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Based on the information the employer received, the employer established justifiable business reasons for discharging the claimant. The facts do not, however, establish that the claimant intentionally disregarded the employer's policies. On December 5, the claimant was not told by his supervisor or co-workers that anyone had to stay and do some rework after the last hog was done. Since neither the supervisor nor any co-worker testified at the hearing, the claimant's testimony as to what happened on December 5 must be given more weight than the employer's reliance on hearsay information from employees who did not testify at the hearing. A preponderance of the evidence does not establish that the claimant committed work-connected misconduct. As of December 13, 2009, the claimant is qualified to receive benefits.

## DECISION:

The representative's January 6, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons. The evidence does not establish that the claimant committed work-connected misconduct. As of December 13, 2009, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw