

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ULISES ORO-SANTOS**  
Claimant

**APPEAL NO. 12A-UI-10719-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FARMLAND FOODS INC**  
Employer

**OC: 07/22/12**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated August 30, 2012, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on October 15, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Dennis McElwain and an interpreter, with the assistance of an interpreter, Ike Rocha. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a production worker from January 2001 to July 20, 2012.

The employer discharged the claimant for chewing gum in violation of a work rule on July 20, 2012. The claimant is diabetic, and on the afternoon of July 20, 2012, the claimant became experiencing dizziness and light-headedness that he believed were due to low blood sugar. An employee offered the claimant gum to help with his symptoms. When he took the gum, he was thinking about addressing his health problems not the work rule against having gum. He put the gum under his tongue to help raise his blood sugars. The supervisor noticed the claimant had gum when the claimant approached the supervisor about his dizziness and faintness and asked the supervisor when work would be done for the day. The supervisor told the claimant to go home if he was sick.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. At most, this case involves a good faith error in judgment, not disqualifying misconduct.

**DECISION:**

The unemployment insurance decision dated August 30, 2012, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs