

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ABENDI LAHNAOUI
Claimant

APPEAL NO. 07A-00265-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

**OC: 12/03/06 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 filed a timely appeal from the December 26, 2006, reference 01, decision that held the claimant eligible for unemployment insurance benefits. After due notice was issued, a telephone conference hearing was held on January 25, 2007. Although notified, the claimant did not participate. The employer participated through Katie Holcomb.

ISSUE:

The issue is whether the claimant was discharged for misconduct and whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed with this employer from August 29, 2006 until November 6, 2006, when he voluntarily left employment. The claimant was a production worker. The claimant left his employment, indicating that he “did not like his supervisor.” Mr. Lahnaoui had been suspended November 6, 7, and 8, and was aware that he was scheduled to and expected to return to work following the disciplinary suspension. After leaving his employment, the claimant did not bring any dissatisfaction to the attention of upper management. The claimant was aware of the company’s “open door” policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the evidence established that the claimant voluntarily quit his employment while work continued to be available to him. The claimant had been placed on a short disciplinary suspension as a result of conduct on the job. The claimant was aware that he was expected to return and scheduled to work, but did not do so. Upon leaving the claimant indicated that he was relinquishing his position with the company because he “did not like his supervisor.”

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

For the reasons herein stated, the administrative law judge concludes that the claimant voluntarily quit his job for reasons that were not attributable to the employer.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge holds that the claimant is overpaid unemployment insurance benefits in the amount of \$1,670.00 pursuant to Iowa Code section 96.3-7 because a decision has determined the claimant is eligible to receive benefits due to a voluntary quit without good cause attributable to the employer.

DECISION:

The December 26, 2006, reference 01, representative's decision is hereby reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$1,670.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tpn/css