

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RITA R MICHELSON
Claimant

APPEAL NO. 14A-UI-03165-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BELLE/SIOUX CITY RIVRBOAT
Employer

OC: 02/16/14
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 14, 2014, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on April 15, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Donna Beck-Willems participated in the hearing on behalf of the employer. Exhibits One through Ten were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a housekeeper for the employer from August 25, 2009, to February 12, 2014. She had been warned on January 15, 2013, about using a mop in the kitchen that had just been used in the restroom, which was against cleaning policy. She was warned on June 18, 2013, for failing to give proper notice of an absence. She was suspended and warned on August 19, 2013, for failing to doing pick up without using a cart in violation of cleaning procedures and dumping an ashtray on the carpet and walking away without cleaning it up. Suspension is the last stage of the progressive discipline policy.

On February 11, 2014, a customer approached the claimant while she was vacuuming and asked her to contact a slot attendant due to a problem with the slot machine. She told him that she would do so in a minute, but she continued to vacuum and did not help the customer. When the customer approached a few times afterward, the claimant ignored the customer. This violated the employer's red carpet treatment policy that all employees are required to follow in dealing with customers.

The customer ended up complaining to a supervisor and security officer about the claimant's conduct. On February 12, 2014, the employer discharged the claimant for repeated violation of the casino policies.

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).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. The claimant admitted that she knew what she had done was wrong. She had been warned about policy violation three times before. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated March 14, 2014, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs