

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**KIMBERLY N COOPER**  
Claimant

**LQ MANAGEMENT LLC**  
Employer

**APPEAL NO. 14A-UI-11185-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/14/14**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 7, 2014, reference 02, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on November 17 and 25, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Alisha White participated in the hearing on behalf of the employer. Exhibits 1 and A-1 were admitted into evidence at the hearing. There were two decisions issued, one on October 6, 2014, in regard to the claimant's employment with LaQuinta Inn & Suites, in Moline, Illinois (Appeal 14A-UI-11184) and one on October 7, 2014, in regard to the employment at the Baymont Inn in Davenport, Iowa (Appeal 14A-UI-11185). Both hotels are under common ownership and will be treated as continued employment for the purpose of this appeal.

**ISSUES:**

Did the claimant file a timely appeal?  
Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant has worked for LaQuinta Inn & Suites from August 2007 to September 10, 2014, as a laundry attendant. She worked at the employer's Baymont Inn hotel in Davenport, Iowa, and most recently for LaQuinta Inn & Suites, in Moline, Illinois. Alisha White, the general manager, was the claimant's supervisor.

The claimant was informed and understood that under the employer's work rules, employees were subject to termination for unauthorized use of guest rooms.

On September 6, 2014, the claimant was feeling lightheaded. She was pregnant and decided she needed to lay down over her lunch break. She asked a housekeeper if she could use a vacant guestroom that the housekeeper had not finished cleaning so she could lay down. The

housekeeper told her it would be okay. The claimant did not contact White or any supervisor about using the guest room. The housekeeper had no authority to allow the claimant to use the room. The claimant knew that the rules prohibited her from using the room.

After White found out about the claimant's unauthorized use of the guest room, the claimant was discharged on September 10, 2014, for that reason.

An unemployment insurance decision regarding the discharge from the Iowa and Illinois hotels were mailed to the claimant's last-known address of record on October 6 and 7, 2014. The decisions concluded she was discharged for work-connected misconduct and stated the decisions were final unless a written appeal was postmarked or received by the Appeals Section by October 16 and 17, 2014, respectively.

The claimant never received the decisions within the ten-day period for appealing the decision. She found out about the disqualification decisions when she visited the Workforce Development Center in Davenport on October 28, 2014, and immediately faxed in an appeal that day.

#### **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last-known address. Iowa Code § 96.6-2. The claimant's appeal is deemed timely because she did not receive the disqualification decisions and immediately appealed them when she received notice that she had been disqualified. See Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973).

The next issue 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 in the hearing and before she was discharged that she knew she was not allowed to use the room. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated October 7, 2014, reference 02, 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.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs