

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA S PARROTT

Claimant

APPEAL NO. 09A-UI-16459-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUBUQUE WEST HOSPITALITY

Employer

OC: 04/26/09

Claimant: Appellant (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Melissa Parrott filed an appeal from a representative's decision dated October 29, 2009, reference 03, which denied benefits based on her separation from Dubuque West Hospitality. After due notice was issued, a hearing was held by telephone at 8:00 a.m. on December 8, 2009. Ms. Parrott participated personally. The employer did not respond to the notice of hearing until 8:59 a.m. after the hearing record was closed. The employer did not have a confirmation number to verify it had followed the instructions for participating as listed on the hearing notice. The Appeals Bureau had no record of anyone calling on the employer's behalf prior to the hearing. Therefore, the administrative law judge declined to reopen the hearing record.

ISSUE:

At issue in this matter is whether Ms. Parrott was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Parrott began working for Dubuque West Hospitality on May 26, 2009. She last worked approximately 32 hours each week in housekeeping. She was discharged by her manager on September 29 and told her services were no longer needed.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). It was incumbent upon the employer to provide details concerning the reason for Ms. Parrott's discharge as mere allegations of misconduct are not sufficient to establish misconduct. 871 IAC 24.32(4). The employer must also establish that the discharge was triggered by a current act that constituted misconduct within the meaning of the law. 871 IAC 24.32(8).

The employer did not participate in the hearing to provide details concerning the reason for Ms. Parrot's discharge. Without specific details, the administrative law judge cannot determine whether the conduct complained of constituted a substantial disregard of the employer's interests or standards as is required for a misconduct disqualification. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). Nor can the administrative law judge determine if the discharge was prompted by a current act of misconduct.

The employer herein has wholly failed to sustain its burden of proving that Ms. Parrott should be disqualified from receiving job insurance benefits. As such, benefits are allowed.

DECISION:

The representative's decision dated October 29, 2009, reference 03, is hereby reversed. Ms. Parrott was discharged by Dubuque West Hospitality but disqualifying misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css