

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON AINZA-BROCKMAN
Claimant

APPEAL NO. 07A-UI-01910-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERISTAR CASINO COUNCIL BLUFFS
Employer

OC: 01/21/07 R: 01
Claimant: Appellant (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Aaron Ainza-Brockman (claimant) appealed a representative's February 12, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Ameristar Casino Council Bluffs, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 12, 2007. The claimant participated in the hearing. Lesley Buhler, a representative with TALX, appeared on the employer's behalf with Shila Kinsley, the employer's witness. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on June 7, 1999. The claimant worked as a full-time slot attendant. When the claimant began working, the employer told him that to work he had to possess a gaming license. The claimant obtained a gaming license and worked until January 11, 2007.

The claimant had to renew his gaming license in early 2007. When the claimant applied for a new license, he reported an unpaid speeding ticket he had in Colorado and that he had pled guilty to a charge in Iowa over two years earlier. When the gaming commission initially learned about the legal matters, the claimant understood he would be suspended until the gaming commission could get the unpaid Colorado speeding ticket resolved. After the gaming commission learned the claimant had pled guilty to possession of an illegal substance in Iowa, the claimant was informed his gaming license was revoked and he could not obtain another one in the immediate future.

The employer received information from the Iowa Gaming Commission on January 16, 2007, that the claimant's gaming license had been revoked. The employer cannot allow employees to work if they do not possess a gaming license.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

At the time of hire, the claimant received information that he was required to possess a gaming license to work for the employer. The employer informs employees they must at all times possess a gaming license to work for the employer. When the claimant renewed his gaming license in early 2007, he truthfully reported the unpaid Colorado speeding ticket and that he had pled guilty to a charge in Iowa about two and a half years ago. When the gaming commission learned about the guilty plea the claimant entered in Iowa, the commission revoked the claimant's gaming license and declined to renew his license. After the gaming commission informed the employer that the claimant no longer possessed a license, the employer had no choice but to end the claimant's employment.

Since the claimant was charged and pled guilty to an offense during his employment, he knew or should have known his off-duty conduct could affect his continued employment if his actions resulted in the loss of his gaming license. The evidence indicates the claimant committed work-connected misconduct over two years ago, but the employer and gaming commission only recently learned about the claimant's conviction. Under the facts of this case, the claimant's discharge amounts to work-connected misconduct. This means the claimant is not qualified to receive unemployment insurance benefits as of January 21, 2007.

DECISION:

The representative's February 12, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant

is disqualified from receiving unemployment insurance benefits as of January 21, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css