

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MASTAY GELI
Claimant

APPEAL NO. 12A-UI-04835-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK &
CASINO**
Employer

OC: 04/08/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 25, 2012, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on May 18, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of interpreter, Agata Sisto. Tracey Casey participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a dish machine operator from April 5, 2010, to March 29, 2012. He was informed and understood that under the employer's work rules, falsification of time records was prohibited and employees were required to report to their work area after clocking in. He had received a verbal warning for tardiness in November 2011.

On March 16, 2012, the claimant was scheduled to work at 6:45 p.m. He was delayed getting to work due to car problems. He pulled up near the employee entrance and stopped his car. He left his motor running and door open as he ran in and punched in on the time clock at 6:44 p.m. He ran back out to his car and parked it in the parking lot before reentering the casino at 6:47 p.m. He did this to avoid having a tardy on his record.

An employee later reported what had happened to his supervisor who in turn notified Clay Willey, food and beverage director, about the matter on March 19. Willey launched an investigation that included reviewing surveillance video showing the claimant stopping his car, entering the casino, and returning to his car to go to the parking lot. On March 22, the claimant was asked about what happened. He admitted to punching in before parking his car on March 16.

After completing the investigation, Willey discharged the claimant on March 29, 2012, for falsifying his time record about when he reported to work.

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 fact that no one ever told the claimant directly that he could not clock in before parking his car does not excuse his behavior. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated April 25, 2012, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs