

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**CONNIE L GIBBS  
PO BOX 45  
CRAIG NE 68019**

**RATH INC  
206 E ERIE ST  
MISSOURI VALLEY IA 51555 1533**

**Appeal Number: 05A-UI-01108-DWT  
OC: 01/02/05 R: 01  
Claimant: Respondent (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Rath, Inc. (employer) appealed a representative's January 28, 2005 decision (reference 01) that concluded Connie L. Gibbs (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 16, 2005. The claimant participated in the hearing. The employer responded to the hearing notice, but was not available for the hearing. Based on the evidence, the arguments of the claimant, 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 as a full-time manager at the employer's motel in February 2004. The claimant and her husband managed the motel.

When the claimant first started working, the employer did not like the way the claimant did the books. The employer retrained the claimant in March or April. After the claimant received more training, the employer did not talk to the claimant again about any bookkeeping errors or problems. In a motel, there are usually some customer complaints. In mid-May a customer (guest) complained that a housekeeper woke him up at 7:00 a.m. The employer's housekeepers do not start work until 8:00 a.m. The employer did not tell the claimant about any serious customer complaints or indicate her job was in jeopardy because of customer complaints. The claimant and her husband checked the cleanliness of rooms every day. Prior to September 9, the employer never indicated there were any problems with the cleanliness of rooms. The claimant did not use profanity at work and the employer did not tell her that employees complained about vulgar language at work. Prior to September 9, 2004, the claimant had no idea her job was in jeopardy.

On September 9, 2004, Don Fetter, the maintenance person who took over as manager, gave the claimant a letter telling her she was discharged for the above reasons.

#### REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

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).

The employer may have had business reasons for discharging the claimant, but the evidence does not establish that she intentionally disregarded the employer's interests. Prior to September 9, 2004, the claimant had no idea her job was in jeopardy. Although the employer talked to the claimant about problems with bookkeeping when she first started, the claimant understood there were no continuing problems after she had been retrained in March or April. The facts do not establish that the claimant did not regularly check rooms for cleanliness, used profanity at work or account for all room rent. The employer did not establish that the claimant committed work-connected misconduct. As of January 2, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's January 28, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute a work-connected misconduct. As of January 2, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/tjc