

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

CATHERINE L PROVANCHA
201 S 34TH ST #4
COUNCIL BLUFFS IA 51501

AMERISTAR CASINO COUNCIL
BLUFFS INC
C/O EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000

Appeal Number: 05A-UI-01587-HT
OC: 01/09/05 R: 01
Claimant: Appellant (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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant, Catherine Provancha, filed an appeal from a decision dated February 3, 2005, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on March 2, 2005. The claimant participated on her own behalf. The employer, Ameristar, participated by Team Relations Manager Denver Meyer and Cage Manager Ryan Stovie. The employer was represented by Employers Unity in the person of Rachel Thompson.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Catherine Provancha was employed by Ameristar from March 18, 2003 until January 7, 2005. She was a full-time main banker and had held this position since August 19, 2003. As a banker, the claimant received training twice a year on how to fill out the forms and documents regarding the financial transactions.

The claimant received several reprimands for failing to complete the currency transfer reports (CTR) which document transactions of more than \$10,000.00. These forms are required by government regulation and failure to complete them can result in fines in excess of \$100,000.00. The warnings given on November 5, 26, December 18 and 26, 2004, explained the failure and notified the claimant improvement must be seen. The last warning notified her that her job could be in jeopardy if there were any further incidents.

On December 31, 2004, the claimant failed to get a social security number on a patron's CTR. This was discovered the next morning and it was discussed with Ms. Provancha. Cage Manager Ryan Stovie asked her about the error and she said things had been busy and she did not get the necessary information. He notified her she could be discharged once the compliance department had thoroughly audited the report.

The report came back on January 5, 2005, and confirmed Ms. Provancha had failed to get the necessary supporting documentation for the CTR. She was notified by Mr. Stovie on January 7, 2005, that she was discharged.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of

recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant had been advised her job was in jeopardy as a result of her continued failure to complete the financial transactions forms correctly. She had been trained on what she was to do and did not assert she did not know what was required of her. These failures could have cost the employer a substantial amount of money in fines and other sanctions. The final incident was yet another failure to correctly complete the CTR and her only explanation was that the bank was "busy" on the night in question. This is not sufficient explanation for the repeated failures to perform her job as required. It is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of February 3, 2005, reference 01, is affirmed. Catherine Provancha is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/sc