

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL R PARKER
Claimant

APPEAL NO. 10A-UCFE-00020-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOC SERVICES LLC
Employer

OC: 03-28-10
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 19, 2010, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on July 9, 2010. The claimant did participate. The employer did participate through Tammy Kadlec, Human Resources Manager.

ISSUE:

Was the claimant discharged due to job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a security officer full time beginning October 13, 2008 through March 23, 2010 when he was discharged.

The claimant worked as a security guard and was responsible for checking the identification of patrons who were entering the casino. The claimant had been trained that he was to check the identification of anyone who did not appear to be at least 35 years old. The employer had no policy that allowed an identification check to be skipped if the guard had seen the patron in the casino on a prior occasion. On March 23, 2010 the claimant was observed on surveillance failing to check the identification of a patron entering the casino. The woman was not 21 years old and was legally prohibited from being in the casino. Employees allowing underage people into the casino could cost the employer their gaming license.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

The claimant knew he was not to allow anyone into the casino who did not appear to be at least 35 years old. The claimant failed to check the identification of a woman who was not 21 years old. Whether the patron would have presented a fake identification card is no excuse for the claimant's failure to check the id. The claimant went through training courses where the policy was reinforced at least two times per year. The claimant's failure to check the identification could result in the employer losing their gaming license or substantial fines. The claimant's failure to check the patron's identification is sufficient misconduct to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The May 19, 2010 (reference 02) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs