

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALEX V GLAY**  
Claimant

**APPEAL NO. 07A-UI-09059-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PRAIRIE MEADOWS RACETRACK  
& CASINO**  
Employer

**OC: 11/05/06 R: 02  
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Alex Glay filed an appeal from a representative's decision dated September 13, 2007, reference 05, which denied benefits based on his separation from Prairie Meadows Racetrack & Casino. After due notice was issued, a hearing was held by telephone on October 9, 2007. Mr. Glay participated personally. The employer participated by Michelle Wilke, Employee Relations Manager.

**ISSUE:**

At issue in this matter is whether Mr. Glay was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Glay was employed by Prairie Meadows from January 11 until August 20, 2007 as a full-time bartender. On or about August 20, the employer was notified by the Iowa Racing and Gaming Commission (IRGC) that Mr. Glay's gaming license was under suspension. Because the license was required for him to work on the premises, he was discharged.

Mr. Glay's gaming license was suspended after he was charged with child endangerment on August 18, 2007. As of the date of the hearing herein, there had been no disposition of the charges. The loss of the gaming license was the sole reason for the separation.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Glay was discharged because he no longer had a gaming license as required to work for Prairie Meadows. In order to impose a misconduct disqualification, the

conduct that results in discharge must be in connection with the employment. The conduct that resulted in Mr. Glay losing his license was not in connection with his employment. The conduct occurred during his off-duty time and was totally unrelated to his duties with Prairie Meadows. Moreover, he has not been convicted of the criminal charges that caused him to lose his license.

The employer failed to establish that Mr. Glay was discharged for misconduct in connection with his employment. He did not deliberately or intentionally engage in conduct he knew to be contrary to the employer's standards or interests. He has not been convicted of any crime that would necessitate the suspension of his gaming license by IRGC. While the employer was required to discharge Mr. Glay because he no longer had a gaming license, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons cited herein, benefits are allowed.

**DECISION:**

The representative's decision dated September 13, 2007, reference 05, is hereby reversed. Mr. Glay was discharged but misconduct in connection with the employment has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs