

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L LIEBERG
Claimant

APPEAL NO. 09A-UI-06899-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CATFISH BEND CASINOS II LLC
Employer

OC: 04-05-09
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 27, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 1, 2009. The claimant did participate. The employer did participate through Steve Morely, Director of Human Resources. Employer's Exhibit One was received.

ISSUE:

Was the claimant discharged for work-related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a dual rate supervisor full time beginning May 31, 2006 through April 9, 2009 when she was discharged.

The claimant suffered a work-related injury when she hit her head on a counter on April 6. She received medical treatment and was subjected to a post-accident drug test. On April 9 the claimant's gaming license issue by the Iowa Department of Racing and Gaming. The claimant was discharged because her gaming license was revoked. She did not appeal the revocation of her gaming license and does not currently have a gaming license. She is not eligible to work in a casino without a valid 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.

To work in a casino in Iowa a person must possess a valid gaming license. The claimant lost her gaming license through her own conduct, that is her failure to pass a drug test and she did not take any action to appeal the revocation. This situation is akin to situations where a person must have a valid commercial driver's license in order to drive for an employer. When that license is lost, even if lost due to conduct on the person's own time, they can no longer work for the employer. Here the employer cannot legally employ a person who does not possess a valid gaming license. The claimant lost the gaming license through her own misconduct. As such, the employer has established misconduct sufficient to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The April 27, 2009, reference 01 decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has

worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css