

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELLE L MC KINNEY
Claimant

APPEAL NO: 10A-UI-11069-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE CASINO AND GOLF RESORT
Employer

OC: 06/27/10
Claimant: Respondent (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer appealed a representative's July 30, 2010 decision (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non disqualifying reasons. A telephone hearing was held on September 20, 2010. The claimant did not respond to the hearing notice or participate in the hearing. Amy Schaeffer appeared on the employer's behalf. Based on the administrative record, 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:

Based on the claimant's employment application an Iowa Racing and Game Commission representative issued the claimant a provisional gaming license. Even though the employer hired her as a cook, all employees of a license gaming operation must have a valid IRGC license. The claimant worked four days for the employer. Her last day of work was October 9, 2009.

After learning the claimant had outstanding warrants for her arrest in Florida, the Iowa Racing and Gaming Commission suspended her provisional license on October 9, 2009. The claimant failed to disclose this information or any legal issues on her employment application.

After the claimant's provisional license was suspended, the employer discharged her because she could not work for the employer without a license.

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 section 96.5-2-a. 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).

A deliberate false statement or omission on an employment application amounts to work-connected misconduct when the false statement or omission could expose the employer to legal penalties. 871 IAC 24.34(6). The claimant's failure to report any legal issues she had in Florida led to the suspension of her provisional license. This in turn led the employer to discharge her because all employees working for the employer had to possess a valid license. The employer discharged the claimant for work-connected misconduct because she failed to disclose pertinent information that led IRGC to suspend or revoke her provisional license. As of October 9, 2009, the claimant is not qualified to receive benefits.

DECISION:

The representative's July 30, 2010 decision (reference 02) is reversed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 9, 2009. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs