

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL SANDERS
Claimant

APPEAL NO. 07A-UI-05376-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FUN CITY
Employer

**OC: 04/29/07 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Michael Sanders (claimant) appealed a representative's May 18, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Fun City (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 11, 2007. The claimant participated in the hearing. Steve Morely, the human resource director, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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:

The claimant started working for the employer on November 3, 2005. The claimant worked as a full-time line cook. Frank Miller supervised the claimant.

On April 1, 2007, the employer merged with Catfish Bend Casino and Catfish Bend Casino rules were reviewed with the claimant and other employees who had been working for the employer. Catfish Bend Casino did not allow employees to work off the clock and stressed the importance of accurately reporting time worked. To emphasize the importance of accurate reporting after April 1, employees were required to punch in on a time clock and to record on paper the time the employee checked in and out of work.

Prior to April 29, 2007, the claimant's job was not in jeopardy. On April 29, the claimant was scheduled to start work at 8:00 a.m. The claimant did not report to work until 8:33 a.m. The claimant did not punch in on the time clock and wrote on the timesheet that he came to work at 7:56 a.m. When the claimant punched out, he punched out twice at the end of the night.

On April 30, 2007, the employer discharged the claimant because he falsified his timesheet. After the employer discharged him, the claimant contacted Morley and admitted he made a bad mental judgment on April 29 when he recorded the incorrect time he reported to work. The claimant was late that day because of problems with his vehicle.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 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).

The facts indicate the claimant intentionally reported he had started work just before 8:00 a.m. on April 29 when he knew he was late for work. Even though prior to April 1, the claimant may have gotten away with this type of conduct as of April 1, the claimant knew or should have known his employer no longer allowed him to misreport the hours he worked. The employer discharged the claimant for the work-connected misconduct he committed on April 29, 2007. As of April 29, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's May 18, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of April 29, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css