

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MOISES MORA**  
Claimant

**APPEAL NO. 07A-UI-04120-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOC SERVICES LLC**  
Employer

**OC: 03/25/07 R: 04  
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge  
Section 96.3-7 – Recovery of Overpayments

**STATEMENT OF THE CASE:**

IOC Services, LLC filed a timely appeal from an unemployment insurance decision dated April 12, 2007, reference 01, that allowed benefits to Moises Mora. After due notice was issued, a telephone hearing was held May 8, 2007 with Mr. Mora participating. Human Resources Manager Associate Sara Frank and Guest Services Manager Holly Skiver participated for the employer. Employer Exhibit One was admitted into evidence.

**ISSUE:**

Was the claimant discharged for misconduct in connection with his employment?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Moises Mora was employed by IOC Services, LLC from November 8, 2000 until he was discharged March 22, 2007. He last worked as a guest services center supervisor at the Isle of Capri Casino. The final incident leading to his discharge occurred on March 17, 2007, a busy Saturday which coincided with St. Patrick's Day. Mr. Mora had been told by his supervisor, Holly Skiver, to remain on duty until midnight. Ms. Skiver was working at the company's facility in Davenport, Iowa, while Mr. Mora worked at the Bettendorf facility. Mr. Mora left work at approximately 10:20 p.m. without notifying Ms. Skiver and leaving in charge a person who was not part of management. Mr. Mora has received unemployment insurance benefits since filing a claim during the week of March 25, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with his employment. It does.

Iowa Code section 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 employer's evidence has established to the satisfaction of the administrative law judge that Mr. Mora disobeyed specific instructions from his supervisor by leaving work prior to midnight. It also establishes that he left without notifying the supervisor. The administrative law judge concludes that the claimant was discharged because of insubordination. Benefits must be withheld.

Mr. Mora has received unemployment insurance benefits to which he is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

**DECISION:**

The unemployment insurance decision dated April 12, 2007, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to

ten times his weekly benefit amount, provided he is otherwise eligible. He has been overpaid by \$1,052.00.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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