

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LATHISHA R BECK

Claimant

APPEAL NO. 10A-UI-11352-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ISLE OF CAPRI BETTENDORF LC
ISLE CASINO & HOTEL BETTENDORF**
Employer

OC: 06/20/10

Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Lathisha R. Beck (claimant) appealed a representative's August 9, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Isle of Capri Bettendorf, L.C. / Isle Casino & Hotel Bettendorf (employer). After hearing notices were mailed to the parties' last known addresses of record, a telephone hearing was held on September 30, 2010. The claimant participated in the hearing. Jamie Briesch 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:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on April 7, 2008. She worked full-time as a revenue/income auditor. Her last day of work was June 24, 2010. The employer sent her home and then discharged her on that date. The stated reason for the discharge was falsifying her time sheet.

The claimant had received a final warning for attendance on November 13, 2009, primarily for tardiness. While the warning of automatic discharge had expired in April 2010, the claimant had received first and second warnings for job performance in February and in June 2010.

On June 19 the claimant was scheduled to start work at 7:00 a.m. She did not punch in that day, but manually reported on her time card that she had been to work on time. She also verbally asserted to managers that she had been on time. However, other coworkers reported she was late. The employer researched the claimant's key card access to the building, and found she had not even entered the building until 7:06 a.m. As a result of the conclusion that she had falsified the information regarding being on time, the employer discharged the claimant.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits, an employer must establish the employee was responsible for a deliberate act or omission that was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior that 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. 871 IAC 24.32(1)a; Huntoon, supra; Henry, supra. In contrast, 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. 871 IAC 24.32(1)a; Huntoon, supra; Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's false report regarding the time she was at work shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

DECISION:

The representative's August 9, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of June 24, 2010. This disqualification continues until the claimant 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw