

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT M COLE

Claimant

APPEAL NO: 14A-UI-10919-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK
& CASINO**

Employer

OC: 09/28/14

Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 16, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the November 7 hearing with his attorney, Larry Dempsey. Megan Sease, the human resource recruiting and training specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in September 1997. He worked as a full time security officer. Part of the claimant's job required him to check driver's licenses of patrons to make sure no one under 21 was allowed in the casino.

During his employment, the claimant prevented many minors from going into the casino. On January 12, 2014, the claimant allowed a minor into the casino when he did not use all the resources to check this person's age. In this case, the claimant only looked at the patron's driver's license, which was a fake. He did not use the employer verification system to make sure the driver's license was valid and not a fake. After the employer discovered the patron was underage and it was the claimant who allowed her into the casino, the claimant took responsibility for failing to use all the resources available to him. The claimant received a three-day suspension and a corrective action. The corrective action or written warning informed the claimant that if there further violations he would be disciplined which could include termination.

On September 21 around 10:30 a.m. a male gave the claimant a driver's license from Puerto Rico. The claimant used the employer's resources to check the age of the male. The employer's verification system gave an alert that there was something wrong with the driver's license. If a person is under 21, the verification usually issues a message that the person is not 21, which is different than the message the claimant got the morning of September 21. After receiving this warning, the claimant checked to make sure the employer accepted driver's licenses issued from Puerto Rico, which the employer did. The driver's license was in English and Spanish. The claimant looked at the male's birth date and read the birth date as 1984. The claimant asked the male his birthday. The male told him 1984. Based on all this information, the claimant allowed the male into the casino and understood he was 30 years old.

After the male played some slot machine, a table games dealer questioned his driver's license and called for a security officer. The male was taken to an office. The employer learned he was not 21. The employer identified the claimant as the person who allowed the male into the casino. When the claimant looked the driver's license again, he again read the birthdate as 1984, not 1994. The employer suspended the claimant on September 24, 2014.

The employer discharged the claimant on October 1 for allowing a minor into the casino after he had already been warned about this violation January 2014.

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. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established business reasons for discharging the claimant after he had already been warned for allowing a minor into the casino. The evidence establishes that after the claimant received the January corrective action, he used the employer's resources before allowing a person into the casino. The claimant took reasonable steps to check the unusual driver's license that was in both English and Spanish. At most the claimant made a good faith

error in judgment when he read the date of the person's birthdate as 1984 instead of 1994. The claimant did not intentionally allow a minor in the casino on September 21. He did not commit work-connected misconduct. As of September 28, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's October 16, 2014 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of September 28, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs