

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANNA J HAUGERUD**  
Claimant

**APPEAL NO. 09A-UI-16921-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DIAMOND JO WORTH LLC**  
Employer

**OC: 101/04/09**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Misconduct

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated October 27, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 15, 2009. Claimant participated. Employer participated by Jeff Peterson, human resources director. The record consists of the testimony of Anna Haugerud and the testimony of Jeff Peterson.

**ISSUE:**

Whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a casino and the claimant worked as a full-time dealer for table games. She was initially hired on April 17, 2007. In order to work for the employer, the claimant was required to have a gaming license issued by the state of Iowa. The claimant's gaming license was suspended by the Iowa Racing and Gaming Commission on September 13, 2009, as a result of a charge for possession of marijuana. The claimant was offered the option of staying on a suspension list with the employer or be terminated. The claimant elected the latter and was terminated on September 30, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

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.

In order to work in a casino in Iowa, Iowa law requires that a person must possess a valid gaming license. The claimant lost her gaming license through her own conduct. The claimant's requirement for a gaming license is analogous to an individual who must have a valid commercial driver's license in order to drive for an employer. When that license is lost, even if lost due to conduct on the person's own time, he or she can no longer work for the employer. In this case, the employer cannot legally employ a person who does not possess a valid gaming license. The claimant lost the gaming license through her own misconduct. The employer has established misconduct and benefits are denied.

**DECISION:**

The decision of the representative dated October 27, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs