

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALICIA D GARMOE
Claimant

APPEAL NO. 07A-UI-02767-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CATFISH BEND CASINOS
Employer

**OC: 02-18-07 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 14, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on April 4, 2007. The claimant did participate along. The employer did participate through Steve Morely, Human Resources Director.

ISSUE:

Was the claimant discharged for work related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a food and cocktail server full time beginning October 8, 2005 through February 8, 2007, when she was discharged.

The claimant was arrested on December 13, 2006; and on December 18, 2006, her gaming license was suspended by the Iowa Racing and Gaming Commission. No person is allowed to work in a casino without a valid gaming license. The employer suspended the claimant and gave her an opportunity to recover her gaming license. When the claimant had not obtained a valid gaming license by February 8, 2007, she was discharged.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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 claimant knew she was required under state law to have a valid gaming license in order to be employed by a casino. This situation is much like that of an employee who must have and maintain a valid driver's license in order to perform their job duties. Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. Cook v. IDJS, 299 N.W.2d 698 (Iowa 1980). The claimant's failure to maintain a valid gaming license is sufficient misconduct to disqualify her from receiving unemployment insurance benefits. Benefits are denied.

DECISION:

The March 14, 2007, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. Inasmuch as no benefits were claimed or paid, no overpayment applies.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw