

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E BRILL
Claimant

APPEAL NO. 12A-UI-12972-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRAND FALLS CASINO RESORT LLC
Employer

OC: 09/30/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

STATEMENT OF THE CASE:

Mary E. Brill filed a timely appeal from an unemployment insurance decision dated October 17, 2012, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held November 30, 2012 with Human Resources Director Pat Lund participating for the employer, Grand Falls Casino Resort. Ms. Brill did not provide a telephone number at which she could be contacted.

ISSUE:

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

FINDINGS OF FACT:

Mary E. Brill was employed by Grand Falls Casino Resort from June 9, 2011 until she was discharged September 27, 2012. She last worked as a cook. Ms. Brill was absent without contact on September 27, 2012. After the end of her shift she sent a text message to the employer saying that she had overslept. She was tardy on 14 other occasions between April 25 and September 16, 2012. These instances of tardiness were not reported to the employer as being related to illness. She had received discipline because of attendance in May and June of 2012. Attendance was also addressed in her annual performance review on August 3, 2012.

REASONING AND CONCLUSIONS OF LAW:

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

Excessive unexcused absenteeism, a concept that includes tardiness, is one form of misconduct. See 871 IAC 24.32(7). The evidence in this record establishes a total of 15 attendance violations of which none were properly reported as being health-related. This evidence is sufficient to establish misconduct. Benefits are withheld.

DECISION:

The unemployment insurance decision dated October 17, 2012, reference 01, is affirmed. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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