

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**TRAVIS D MONROE
707 – 7TH AVE N #9
FORT DODGE IA 50501**

**OCEAN HOSPITALITY INC
HOLIDAY INN
2001 US HWY 169S
FORT DODGE IA 50501**

**Appeal Number: 04A-UI-08242-CT
OC: 10/19/03 R: 01
Claimant: Respondent (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Ocean Hospitality, Inc. filed an appeal from a representative's decision dated July 23, 2004, reference 07, which held that no disqualification would be imposed regarding Travis Monroe's separation from employment. After due notice was issued, a hearing was held by telephone on August 27, 2004. The employer participated by Sara Andersen, Assistant Manager, and Tawny Thoma, Bartender. Mr. Monroe did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Monroe was employed by Ocean Hospitality, Inc., doing business as Holiday Inn, from November 23, 2003 until June 21, 2004. He was discharged for theft.

On June 19, Mr. Monroe was working a wedding banquet. He was paid cash for two kegs of beer at \$125.00 each. Tawny Thoma observed him receive the cash payments. Ms. Thoma was also present when he counted out \$150.00 from the register. Mr. Monroe advised Ms. Thoma that he was going to drop all three payments in the safe. The night auditor who went over the paperwork was aware that two kegs had been purchased for the wedding but did not have a payment to match the amounts paid for the kegs. Mr. Monroe had dropped three envelopes in the safe and each envelope contained \$100.00. When questioned by the employer, he indicated he had no knowledge of the missing money. Only two managers had access to the safe. Mr. Monroe was discharged on June 21, 2004.

Mr. Monroe had received a written warning on June 10, 2004. The warning was due to the fact that he was renting out rooms at the employee rate without permission. The warning was also due to the fact that he was renting multiple rooms to himself for free and allowing his friends to use them.

Mr. Monroe has received a total of \$1,282.00 in job insurance benefits since filing his additional claim effective June 20, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Monroe was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Monroe was discharged for theft of \$100.00 from the employer. He took \$25.00 from each of the two payments for the kegs and \$50.00 from the money he retrieved from the cash register. Theft from one's employer is clearly contrary to the type of behavior an employer has the right to expect. Mr. Monroe's past conduct in renting rooms for his friends for free also constituted theft as it deprived the employer of the receipts that could have been earned.

After considering all of the evidence, the administrative law judge concludes that disqualifying misconduct has been established by the evidence. Accordingly, benefits are denied. Mr. Monroe has received benefits since filing his additional claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code Section 96.3(7).

DECISION:

The representative's decision dated July 23, 2004, reference 07, is hereby reversed. Mr. Monroe was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Monroe has been overpaid \$1,282.00 in job insurance benefits.

cfc/pjs