

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBIN M MOREHOUSE
Claimant

APPEAL NO. 07A-UI-02695-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRIVOLI INNS LLC
Employer

**OC: 02/18/07 R: 01
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Robin M. Morehouse filed an appeal from a decision of a representative dated March 14, 2007, reference 01, which denied benefits based on her separation from this employer. After due notice, a hearing was scheduled for and held in Council Bluffs, Iowa, on April 9, 2007. Ms. Morehouse participated. The employer participated by Maria Nehring, general manager, and Mr. Elisha Nehring, witness. Exhibits 1 through 8a were received into evidence.

ISSUE:

The issues in this matter are whether the claimant quit for good cause attributable to the employer or whether the claimant was discharged for misconduct in connection with her work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds that: The claimant worked for this employer from April 21, 2005, until February 22, 2007, when she was discharged from employment. Ms. Morehouse held the position of full-time night auditor, working 11:00 p.m. until 9:00 a.m. The claimant was paid by hour. Her immediate supervisor was Maria Nehring.

A decision was made to terminate Ms. Morehouse based upon continuing problems between the claimant and a housekeeping worker who had been promoted to housekeeping supervisor. Although the employer had met with both Ms. Morehouse and the housekeeping supervisor to resolve the problem, the employer believed that the Ms. Morehouse continued to issue directives to housekeeping personnel and had demonstrated a continued unwillingness to work in a compatible manner with the housekeeping supervisor.

The final incident that resulted in the decision to terminate Ms. Morehouse took place when the claimant, without the knowledge or permission of management, engaged in a “sting operation” involving the head housekeeper. Ms. Morehouse placed marked currency in a room, giving the appearance that the funds had been left as a “tip” in an effort to discredit the head housekeeper. When Ms. Morehouse became aware through accessing unauthorized sites on the company computer that she would be discharged, the claimant called her employer at approximately 11:00 p.m. on the night of February 22, 2007, threatening to leave the facility unmanned. When the general manager arrived at the facility and discharged the claimant, Ms. Morehouse indicated that he had acted to hamper the company’s computer operations. This act, however, took place after the claimant’s discharge.

REASONING AND CONCLUSIONS OF LAW:

In this case, the administrative law judge concludes, based upon the evidence in the record, that the employer has sustained its burden of proof in showing that the claimant's discharge took place under disqualifying conditions. The employer had acted reasonably to end a conflict between the claimant and the company's newly appointed housekeeping supervisor; however, Ms. Morehouse continued to act in a manner that was detrimental to good working relations and had entered into a "sting operation" without the authorization or knowledge or management. This conduct demonstrated a disregard for the employer's interests and reasonable standards of behavior that it had a right to expect of its employees under the provisions of the Iowa employment security law. The claimant was discharged after accessing unauthorized information on company computers and threatening to quit in the middle of her night shift.

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.

For the reasons stated herein, the administrative law judge finds that the claimant's separation from employment was disqualifying. Benefits are withheld.

DECISION:

The representative's decision dated March 14, 2007, reference 01, is affirmed. The claimant was discharged for misconduct in connection with her employment. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw