

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

SCOTT A STRICKER  
21154 WHITE OAK AVE  
BOCA RATON FL 33424

BRISTOL HOTEL MANAGEMENT CORP  
C/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-03487-CT  
OC: 01/18/04 R: 04  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

Bristol Hotel Management Corporation filed an appeal from a representative's decision dated March 17, 2004, reference 01, which held that no disqualification would be imposed regarding Scott Stricker's separation from employment. After due notice was issued, a hearing was held by telephone on April 20, 2004. Mr. Stricker participated personally. The employer participated by Rick Peterson, Director of Human Resources; Jason Mitchell, Acting General Manager; and Devery Freeman, Food and Beverage Director.

#### 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. Stricker was employed by Bristol Hotel Management Corporation from December 16, 1996 until January 16, 2004. He worked at the Holiday Inn in Davenport and was last employed full time as chief engineer. He was discharged for theft.

In November of 2003, Mr. Stricker was given the key to the safety deposit box in which cash was kept to supply other departments with change. There was also a key to the box in a sealed envelope in the desk in the general manager's office. Although the desk drawer was not locked, the general manager's office was locked when vacant. There was \$1,00.00 in the box when it was entrusted to Mr. Stricker. The box was opened for an audit on January 2, 2004 and there was no money in the box. When initially confronted by the employer, Mr. Stricker denied any knowledge of the missing money but did indicate that his copy of the key had been lost.

On January 14, Mr. Stricker met with loss prevention and signed a statement admitting to having taken the \$1,000.00 from the safety deposit box. He indicated he had taken it all at one time near Christmas in order to buy presents but had intended to return it. As a result of the above incident, Mr. Stricker was discharged on January 16, 2004.

Mr. Stricker has received a total of \$3,110.00 in job insurance benefits since filing his claim effective January 18, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Stricker 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. Stricker was discharged for theft of money belonging to the employer. The administrative law judge concludes from all of the evidence that he did, in fact, remove money that did not belong to him. This finding is based not only on his confession to loss prevention but also the surrounding facts. Mr. Stricker was the only individual, other than the general manager, who had a key to the safety deposit box in which the money was kept. It is unlikely that someone finding his lost key would have known it was for a safety deposit box in the hotel. These factors, combined with the confession, persuade the administrative law judge that Mr. Stricker was guilty of theft.

Theft from one's employer is clearly contrary to the type of behavior an employer has the right to expect. Mr. Stricker's theft constituted misconduct within the meaning of the law and, therefore, he is disqualified from receiving job insurance benefits. He has received benefits since filing his 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 March 17, 2004, reference 01, is hereby reversed. Mr. Stricker 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. Stricker has been overpaid \$3,110.00 in job insurance benefits.

cfc/b