

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW M SEITER**  
Claimant

**APPEAL NO. 10A-UI-10550-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RIVERSIDE CASINO AND GOLF RESORT**  
Employer

**OC: 06/14/10**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated July 12, 2010, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on September 10, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Trisha Murphy participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a dealer in the employer's casino from April 4, 2009, to April 30, 2010. He was informed and understood that under the employer's work rules, he was required to be licensed by the Iowa Racing and Gaming Commission. He also was informed and understood that off-duty conduct causing the employee's IRGG gaming license to be suspended or revoked would result in immediate termination.

On April 28, 2010, the claimant operated a motor vehicle while he was intoxicated. The offense happened while he was off-duty and driving his personal vehicle. He was arrested and charged with operating a vehicle while intoxicated second offense on April 28, 2010. The employer discharged the claimant on April 30, 2010, after it learned that the claimant's gaming license had been suspended due to the OWI arrest and charge.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the

contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The Iowa Supreme Court has ruled that off-duty misconduct may constitute work-connected misconduct under the unemployment insurance law if the conduct deliberately violates the employer's work rules. Kleidosty v. Employment Appeal Board, 482 N.W.2d 416, 418 (Iowa 1992).

In this case, the claimant knew that he was required to maintain his gaming license to keep his job and that off-duty conduct causing the employee's IRGG gaming license to be suspended or revoked would result in immediate termination. Work-connected misconduct has been proven in this case.

**DECISION:**

The unemployment insurance decision dated July 12, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/css