

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

DENNIS L HUDSON
4040 HUBBELL AVE APT 100
DES MOINES IA 50317

METRO LODGING LC
THE INN ON MERLE HAY
1609 N ANKENY BLVD #200
ANKENY IA 50021

Appeal Number: 04A-UI-05020-H2T
OC 04-11-04 R 02
Claimant: Appellant (1)

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/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 23, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on May 26, 2004. The claimant did participate. The employer did participate through Lori Frost, Comptroller and Human Resources Manager and Wes Greve, General Manager. Employer's Exhibit One was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an assistant housekeeper full time beginning September 16, 2000 through March 30, 2004 when he was discharged. On days that the head housekeeper was off work the claimant was required to check the rooms to make sure they were clean and he was

also required to clean five to seven rooms on his own. The claimant was also to check the rooms of the other staff. On the weekend of March 28, 29, 2004, the claimant was to check the rooms of the other workers and he was to clean some rooms on his own. When Mr. Greve checked the rooms on March 29, 2004 they had not been cleaned (beds not made, bathrooms not cleaned) and the claimant had not checked the rooms of the other housekeepers. The claimant failed to perform the duties that were assigned to him. The claimant was capable of performing his duties but chose not to do so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

An employer has a right to expect employees to conduct themselves in a certain manner. The claimant disregarded the employer's rights by failing to perform the duties he had been assigned including cleaning rooms and checking the rooms of other housekeepers. The

claimant failed to perform the duties he was assigned to perform. His failure to perform his duties is a disregard of the employer's rights and interests is misconduct. As such, the claimant is not eligible to receive unemployment insurance benefits.

DECISION:

The April 23, 2004, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

tkh/kjf