

**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**

**JODEE A RADOSEVICH  
1222 STERN ROAD  
ALBANY IL 61230**

**IOC SERVICES LLC  
ISLE OF CAPRI  
RHYTHM CITY CASINO  
1641 POPPS FERRY ROAD B-1  
BILOXI MS 39532-2226**

**Appeal Number: 04A-UI-05815-BT  
OC: 04/25/04 R: 12  
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, 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

STATEMENT OF THE CASE:

Jodee Radosevich (claimant) appealed an unemployment insurance decision dated May 13, 2004, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Isle of Capri (employer) for work-connected misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 21, 2004. The claimant participated in the hearing with former employee Doug Thelen. The employer participated through Lynn Banks, Harold Mire and Heather McKamey. Employer's Exhibit One was admitted into evidence.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time pit manager from March 20, 1991 through April 28, 2004. She was discharged for repeated violation of company policy and failure to comply with standard operating procedures. A written warning was issued on April 6, 2004 for three instances in which she removed cards and dice from the room without auditing them. Accurate records need to be kept of any cards or dice going into the room and it must be logged before it is taken out. The claimant failed to do this on three separate occasions. She was subsequently counseled on April 14, 2004 for unsatisfactory work performance as a result of sending five internal control exception reports without sufficient detailed information. The final incident occurred on April 23, 2004 when the claimant failed to use proper judgment by leaving and allowing a floor supervisor to leave the pit area prior to completion of a drop. A drop is when all the funds are gathered from the different gaming tables and housed in a cart. The procedures involved in completing a drop are very detailed to protect the assets of the company. The floor supervisor, security personnel and employees from each separate gaming table participate in this process and the floor supervisor does not leave the cart until it has been delivered to the count room. Before the drop was completed on April 23, 2004 and while the cart was still on the game floor, the claimant had her floor supervisor leave with her to take care of a personal errand. The employer's security tape showed the claimant and her floor personnel leaving at the same time prior to the completion of the drop. The claimants' actions placed the assets of the company in jeopardy.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code Section 96.5-2-a.

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).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

The claimant was discharged for repeated violation of company policy and failure to comply with standard operating procedures. She had been previously warned and subsequent to these warnings, she showed an intentional disregard for the employer's interests when she ignored required security policies when completing a drop to take care of a personal errand. The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

#### DECISION:

The unemployment insurance decision dated May 13, 2004, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount provided she is otherwise eligible.

sdb/kjf