

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

ANDREA S HORTON  
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CATFISH BEND CASINOS  
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Appeal Number: 05A-UI-02245-C  
OC: 01/23/05 R: 04  
Claimant: Appellant (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

STATEMENT OF THE CASE:

Andrea Horton filed an appeal from a representative's decision dated February 24, 2005, reference 01, which denied benefits based on her separation from Catfish Bend Casinos. After due notice was issued, a hearing was held on June 13, 2005 in Burlington, Iowa. Ms. Horton participated personally and was represented by Robert Engler, Attorney at Law. The employer participated by Steve Morley, Director of Human Resources; Fritz Bergman, Surveillance Director; and Ron Woods, Lead Deck Hand. Exhibits One through Six were admitted on the employer's behalf.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Horton was employed by Catfish Bend Casinos from March 12, 2002 until January 26, 2005 as a full-time surveillance operator. Her job was to monitor surveillance cameras at the casino and file written reports of any irregularities. The employer has a written rule, of which Ms. Horton was aware, that prohibits security personnel from disclosing any information related to security operations.

On January 20, 2005, Ron Woods, a deck hand, reported that Ms. Horton had violated the rule regarding disclosure of security operations. Mr. Woods and another individual, Eric Riggs, were outside discussing the fact that Mr. Riggs had been disciplined for standing around when he should have been working. The two were discussing the fact that the discipline resulted from a report filed by a security team member. Ms. Horton was a few feet from the two and, when they looked in her direction, she told them not to look at her as the security report they were referring to had been prepared by another surveillance operator. The employer considered her statement to be in violation of the work rule and, therefore, discharged her on January 26, 2005. The above incident was the sole reason for the discharge.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Horton 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. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Horton was discharged for conduct the employer considered to be in violation of a known work rule. Although her conduct may have been a technical violation of the work rule, it did not evince a willful or wanton disregard of the employer's standards. She disclosed the author of a security report. She did not disclose any information concerning the day-to-day, internal operations of the security department. Her conduct was not of the sort that would jeopardize or compromise the integrity of the surveillance operations. At most, her conduct constituted a good-faith error in judgment. Conduct so characterized is not considered misconduct within the meaning of the law. See 871 IAC 24.32(1).

After considering all of the evidence, the administrative law judge concludes that the employer has failed to establish disqualifying misconduct. While the employer may have had good cause to discharge because of the rule violation, conduct which might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

#### DECISION:

The representative's decision dated February 24, 2005, reference 01, is hereby reversed. Ms. Horton was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/pjs