

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AHMED M UMAR
Claimant

APPEAL NO. 08A-UI-06178-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK
& CASINO**
Employer

**OC: 05/18/08 R: 02
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Ahmed Umar appealed an unemployment insurance decision dated June 26, 2008, reference 01, that concluded he was discharged for work-connected misconduct. A hearing was held on July 29, 2008, in Des Moines, Iowa. The parties were properly notified about the hearing. Umar participated in the hearing with the assistance of an interpreter, Daniel Gheresus. Michelle Wilkie participated in the hearing on behalf of the employer.

ISSUE:

Was Umar discharged for work-connected misconduct?

FINDINGS OF FACT:

Ahmed Umar worked full time in the housekeeping department from March 22, 2007, to May 13, 2008. He was informed and understood that under the employer's work rules, any violence in the workplace was prohibited.

On the evening of May 12, 2008, Umar and a coworker got into a verbal argument in the rest room after the coworker made some derogatory religious comments about Muslims. At the end of the shift, Umar approached the coworker in the employer's parking lot and demanded that coworker repeat the comments he had made earlier so that others workers would hear them. When the coworker tried turning away, Umar struck him on the back of his neck with his hand hard enough that the coworker's head jerked and he stumbled forward. The coworker told Umar that he was going to be fired and went in and reported to a supervisor what Umar had done.

Umar was discharged on May 14, 2008, for hitting a coworker in violation of the workplace violence policy.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether Umar 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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. Umar'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.

DECISION:

The unemployment insurance decision dated June 26, 2008, 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