

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK J STEVENS

Claimant

APPEAL NO. 13A-UI-00114-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CATFISH BEND CASINOS II LLC

Employer

OC: 12/02/12

Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated December 27, 2012, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on February 8, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Steve Morley participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a dealer from March 22, 2007, to December 1, 2012. He was informed and understood that under the employer's work rules, he was required to clock in and clock out on the employer's timekeeping system.

The claimant had received warnings for failing to clock in or clock out on March 25, 2009 (did not clock in March 20); July 8 (did not clock out July 7); March 30, 2012 (did not clock out July 24); September 11, 2012 (did not clock out August 31); and September 18, 2012 (did not clock in September 13 and clock out on September 14). The claimant had also been disciplined for tardiness. The claimant knew that his job was in jeopardy due to his attendance and failing to clock out.

On November 30, 2012, the claimant did not punch in on the time system when he arrived at work. The claimant was off work December 2 through December 5. He was informed that he had been discharged on December 6 because the attendance occurrences and time entry occurrences put him over the limit of disciplinary occurrences.

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 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. Even if the failures to clock in or clock out were due to negligence, it would be negligence of such a degree of recurrence that it would equal willful misconduct in culpability. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated December 27, 2012, 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/pjs