

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JOHNNIE M WILSON**  
Claimant

**HARVEY'S IOWA MANAGEMENT CO INC**  
Employer

**APPEAL 18A-UI-06649-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/20/18  
Claimant: Respondent (2)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
871 IAC 23.43(9) – Combined Wage Claim/Relief of Charges

**STATEMENT OF THE CASE:**

The employer filed an appeal from the June 7, 2018, (reference 01) unemployment insurance decision that determined the employer's account could not be relieved of charges. After due notice was issued, a hearing was held on July 3, 2018. The claimant did not participate. The employer did participate through Salia Nazarie, Human Resources Generalist and was represented by. Raul Ybanez of Equifax. Employer's Exhibit 1 was admitted into the record.

**ISSUE:**

Would the employer have been relieved of charges if the claimant had an Iowa claim?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a runner for the housekeeping staff beginning on August 14, 2017 through November 13, 2017 he was discharged. Claimant was discharged when the Iowa Racing and Gaming Commission determined he was not eligible for an Iowa gaming license and subsequently charged him with falsifying an Iowa racing and gaming license application. Employer's Exhibit 1 illustrates that the claimant left two convictions for possession of K2 or marijuana (one ounce or less) off of his gaming application. The claimant was obligated to be honest on his application and he was not. Claimant knew that a valid gaming license was required to work in the hotel.

**REASONING AND CONCLUSION O FLAW:**

For the reasons that follow, the administrative law judge concludes that the employer's account may be relieved of charges.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Claimant's falsification of his gaming license application and his loss of his temporary and permanent gaming license is sufficient job-connected misconduct to disqualify him from receipt of unemployment insurance benefits if his claim were determined under Iowa law.

Iowa Admin. Code r. 871-23.43(9)(a) provides, in part:

(9) Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged against a contributory employer's account for the purpose of Iowa Code section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient

or insufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.

The employer has established that the claimant's separation was disqualifying and no benefits would be paid under an Iowa claim. Therefore, the employer's account may be relieved of charges under the provisions of the above-stated Administrative Code section.

**DECISION:**

The June 7, 2018, (reference 01), decision is reversed. The employer's account is relieved of charges.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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