

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT R GROH
Claimant

APPEAL NO: 06AUI-08900-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUBUQUE RACING ASSOCIATION LTD
Employer

**OC: 08/06/06 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Robert R. Groh (claimant) appealed a representative's August 30, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Dubuque Racing Association Ltd. (employer) would not be charged because he had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 20, 2006. The claimant participated in the hearing. Tammy Schnee, the human resource generalist, appeared on the employer's behalf. During the hearing Employers' Exhibits One and Two were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on April 29, 2006. The claimant worked as a full-time employee on third shift. Bill Wolfe supervised the claimant. In late April 2006, the employer gave the claimant a final warning for attendance issues.

On August 3, the claimant reported to work a few minutes late. At 12:08 a.m. the claimant went to his supervisor's office and asked how many points he had accumulated. After the employer told the claimant, the claimant said he was leaving because he was sick of doing all the work around there. (Employer Exhibit Two.) His supervisor indicated that if the claimant left that was his choice. The claimant left his keys on the table and walked off.

Later the employer learned the claimant had stayed at the employer's casino. The claimant played poker and drank beer at the employer's casino for two hours. The claimant decided he needed to relax and stayed at the employer's casino to do this instead of taking his frustrations out on his wife.

The employer's written policy informs employees that leaving an assigned work area without prior supervisory approval is prohibited. (Employer Exhibit One.) Later on August 3, the employer informed the claimant he was discharged for walking off the job without his supervisor's permission.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's conduct around midnight August 3, leaving work and remaining at the employer's facility drinking beer and playing poker, shows an intentional and substantial disregard of the employer's interests and a disregard of the behavior the employer has a right to expect from an employee. The employer discharged the claimant for reasons constituting work-connected misconduct. As of August 6, 2006, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 30, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of August 6, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs