

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ELIZABETH A JURY**

Claimant

**APPEAL NO: 13A-UI-12623-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PRAIRIE MEADOWS RACETRACK & CASINO**

Employer

**OC: 10/13/13**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Elizabeth A. Jury (claimant) appealed a representative's November 7, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Prairie Meadows Racetrack & Casino (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 5, 2013. The claimant participated in the hearing. Tracey Casey appeared on the employer's behalf. 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:**

Was the claimant discharged for work-connected misconduct?

**OUTCOME:**

Affirmed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on January 30, 2012. She worked full time as lead front desk worker at the employer's hotel. Her last day of work was October 14, 2013. She was suspended that day, and was discharged on October 16, 2013. The stated reason for the discharge was too many issues regarding personal phone calls and errors caused by inattention.

The claimant had been given several verbal and written warnings for making errors in getting correct email addresses for customers and for spending too much work time in personal phone calls. She was given a final warning with a suspension on August 21, 2013. Between August 21 and October 10 there were eight more occurrences of making errors and three other conduct issues. The most recent issues occurred on October 10, 2013. On that date the claimant again made a spelling error in an email address, and she also spent about ten minutes on the business phone having an argument with her boyfriend. As a result of these further issues after the August 21 final warning and suspension, the employer discharged the claimant.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

Particularly the claimant spending work time on the business phone having an argument with her boyfriend after she had been warned about prior issues with her spending time on personal phone calls shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

## DECISION:

The representative's November 7, 2013 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of October 14, 2013. This disqualification continues until the claimant has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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