

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TREVOR J RAES
Claimant

APPEAL NO. 09A-UI-11504-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERISTAR CASINO COUNCIL BLUFFS
Employer

OC: 07/05/09
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Trevor Raes, filed an appeal from a decision dated July 30, 2009, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 26, 2009. The claimant participated on his own behalf. The employer, Ameristar Casino, participated by Human Relations Manager Emily Jones, Assistant Food and Beverage Manager Bill Goodman and was represented by TALX in the person of Susan Zevin.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Trevor Raes was employed by Ameristar Casino from June 5, 2007 until July 2, 2009 as a full-time restaurant manager. It was part of his regular duties to do a coaching on every subordinate every month. Every quarter he was to do a one-on-one with each employee to develop goals, evaluate performance or praise accomplishments.

He received warnings on April 10 and November 12, 2008, for failing audits on his personnel files and missing deadlines. On April 6, 2009, he was warned for failing to do any coachings for management staff during the first quarter of 2009. On May 6, 2009, he received a final warning for again failing an audit of his personnel files. The warning notified him his job was in jeopardy.

On June 30, 2009, Mr. Raes submitted the coaching documents to Assistant Food and Beverage Manager Bill Goodman. When Mr. Goodman reviewed them he found documentation with signatures dated from April 8 to June 29, 2009. As it was unusual for this many coachings to be submitted all at once he checked on the signature dates and found some of the signees had not been on premises on the date the document was allegedly signed. He met with Human Relations Manager Emily Jones and together they met with Mr. Raes on July 2, 2009.

At that meeting the claimant was questioned about the dated signatures and he at first denied they had been falsified. When asked again he admitted to having the documents all signed on he same day but having put another date on the signature line for himself and the employee. The employer discharged him at that time for falsification of company documents and failure to do the monthly coachings as required.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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.

871 IAC 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.

The claimant had been advised his job was in jeopardy as a result of his failure to perform the required coachings of his staff. This had been a problem for over a year before his final written warning was issued on this matter. Instead of working with his supervisor to improve his skills and efficiency in this area the claimant elected to falsify documents. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of July 30, 2009, reference 01, is affirmed. Trevor Raes is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css