

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACIE L GULLIE
Claimant

APPEAL NO. 07A-UI-03588-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARRAHS COUNCIL BLUFFS CASINO
Employer

OC: 03/11/07 R: 12
Claimant: Respondent (2)

Section 96.5-2-a - Discharge
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Harrahs Council Bluffs Casino (employer) appealed a representative's April 5, 2007 decision (reference 01) that concluded Tracie L. Gullie (claimant) was not qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 23, 2007. The claimant participated in the hearing. Tanya Achenbach, the senior employee relations director, 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.

ISSUES:

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

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on April 25, 2005. The claimant worked as a full-time slot attendant. The claimant knew she had to possess a gaming license to work for the employer. The claimant had a gaming license until early March 2007. On March 9, 2007, the employer received information that the claimant's gaming license had been suspended.

The claimant could not do any work for the employer if she had a suspended gaming license. The employer put the claimant on a leave of absence so she could take the necessary steps to obtain a gaming license.

The claimant's gaming license was suspended because five years ago, when the claimant was a juvenile, she received a ticket for possessing paraphernalia. A court date was scheduled, but the claimant did not go to the scheduled court date and her guardians did not take her. When the claimant did not appear in court, a warrant for her arrest was issued. The warrant was not served until late February or early March 2007.

The claimant went to court and pled guilty. As a result of her guilty plea, she was denied a gaming license. On March 23, 2007, the employer received information that the claimant's gaming license had

been denied. As a result of this information, on March 26, 2007, the employer informed the claimant she was discharged.

The claimant established a claim for unemployment insurance benefits during the week of March 11, 2007. The claimant filed claims for the weeks ending March 17 through April 21, 2007. The claimant received her maximum weekly benefit amount of \$268.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 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 knew she had to possess a gaming license to work and continue to work for the employer. The claimant's failure to take care of a ticket she had received five years ago and her subsequent guilty plea prevented her from possessing a gaming license. The claimant's actions amount to a substantial disregard of the employer's interests. The employer suspended and then discharged the claimant for work-connected misconduct. As of March 11, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending March 17 through April 21, 2007. The claimant has been overpaid \$1,608.00 in benefits she received for these weeks.

DECISION:

The representative's April 5, 2007 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of March 11, 2007. This disqualification continues until she 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. The claimant is not legally entitled to receive benefits for the weeks ending March 17 through April 21, 2007. The claimant has been overpaid and must repay a total of \$1,608.00 in benefits she received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw