

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLEY K TALBOTT
Claimant

APPEAL NO. 06A-UI-11045-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK
AND CASINO INC**
Employer

OC: 10/22/06 R: 02
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Kimberley Talbott, filed an appeal from a decision dated November 15, 2006, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 4, 2006. The claimant participated on her own behalf. The employer, Prairie Meadows, participated by Employee Relations Manager Michelle Wilke.

ISSUE:

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

FINDINGS OF FACT:

Kimberley Talbott was employed by Prairie Meadows from January 16 until October 20, 2006. She was a full-time security officer. At the time of hire she received a copy of the employee handbook. The Iowa Racing and Gaming Commission prohibits any employee of a casino from playing table games, and this rule was set out in the handbook. The disciplinary consequences are listed as “up to and including discharge,” but the employer routinely discharges anyone found guilty of violating this rule.

On October 18, 2006, the claimant was at the casino with her husband and some friends. She played the slot machines for a while, which was permissible. However, she later played roulette and black jack, which are considered table games. After nearly an hour, she remembered the rule against playing table games and immediately reported the incident to the on-duty security supervisor. The matter was reviewed with the chief of security and the human resources director and the claimant was discharged on October 20, 2006, for violation of the prohibition against employee playing table games.

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 administrative law judge acknowledges the claimant was honest in reporting her violation to the security department. However, that does not mitigate the actual policy violation. The prohibition against employees playing table games is so that they are not playing against the employer, the other participant in the table games. This gives rise to conflicts of interest as well as being a direct violation of rules set down by the governing agency which oversees casinos. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of November 15, 2006, reference 01, is affirmed. Kimberly Talbott is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw