

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MEGAN M FARNSWORTH**  
Claimant

**APPEAL NO. 08A-UI-06668-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 06/22/08 R: 02  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated July 17, 2008, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 5, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Candi Banghart participated in the hearing on behalf of the employer with witnesses, Brenda Woods and Robert Hutson.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a quality assurance analyst from May 12, 2003, to June 23, 2008. She had received a final warning regarding excessive absenteeism on April 22, 2008.

On May 17, 2008, the claimant applied for a different position within the company using the employer's online application process. One of the questions asked on the online application is: "Have you been placed on formal warning or final notice in the past 12 months?" If an employee has applied online before, the answer the employee gave previously remains unless the answer is updated to change the response. The claimant neglected to update the application to respond "Yes" to the question regarding past warnings. This was not done deliberately but was missed due to inadvertence. During one of the interviews the claimant had with a supervisor, she disclosed to the supervisor that she had been warned for attendance when she was asked about her strengths and weaknesses.

When the claimant's supervisor discovered she had applied for a different job, the application was scrutinized and the employer believed that the claimant had falsified the application and was dishonest. Consequently, the employer discharged the claimant on June 23, 2008.

## REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. No willful and substantial misconduct has been proven in this case. I believe the claimant's testimony that she did not deliberately fail to update her application and did not misrepresent information during the interview process.

## DECISION:

The unemployment insurance decision dated July 17, 2008, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs