

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANGELIA L HUMPHREYS**  
Claimant

**APPEAL NO. 09A-UI-11359-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK**  
Employer

**OC: 07/05/09**  
**Claimant: Appellant (2)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Angelia Humphreys, filed an appeal from a decision dated July 31, 2009, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on August 24, 2009. The claimant participated on her own behalf. The employer, Wells Fargo, did not provide a telephone number where a witness could be contacted and did not participate.

**ISSUE:**

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

**FINDINGS OF FACT:**

Angelia Humphreys was employed by Wells Fargo from December 18, 2006 until July 6, 2009 as a full-time loan service specialist. Her area tracked deceased creditors, part of which entailed doing searches in counties where the creditor lived or owned property. Ms. Humphreys removed a particular county in another state from at least one creditor's permanent file because it had been entered erroneously. The other loan specialist who had entered the county name acknowledged she had no reason to have entered it because the creditor had not lived there or owned property there.

The employer discharged Ms. Humphreys stating she had "maliciously" removed the county from the creditor's file but did not specify which regulation she had violated in doing so or why it was not part of her regular job duties since she had some similar removals in the past without being counseled.

## 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 employer has the burden of proof to establish the claimant was discharged for substantial, job-related misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). In the present case the employer did not participate and did not provide any evidence the claimant was guilty of misconduct. Ms. Humphreys believed she was doing her regular job duties by keeping the creditor's file current and accurate and did not deliberately do anything with the intention of acting contrary to the employer's best interests.

**DECISION:**

The representative's decision of July 31, 2009, reference 01, is reversed. Angelia Humphreys is qualified for benefits provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs