

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KATRINA J BROOKS
Claimant

US BANK NATIONAL ASSOCIATION
Employer

APPEAL 17A-UI-07829-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/09/17
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 3, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 22, 2017. Claimant participated. Employer participated through David Tigges, Branch Manager.

ISSUE:

Was the claimant discharged due to job connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a teller/coordinator beginning on October 3, 2014 through July 7, 2017 when she was discharged. The claimant was a supervisor of other tellers and as such she knew the banks policies and procedures. At hearing claimant admitted she knew she was not allowed run transactions for any family members and that if she did so even once she could be subject to discharge.

The claimant's son, who does not have an account at the bank, came to the bank to deposit eighty dollars into his sister's account. His sister was the claimant's daughter. The claimant was working at a teller window and called her son to come to her teller window so she could talk to him. There were other customers in the bank who were in line waiting for tellers to help them. There was no reason for the claimant to call her son to her window as she was not allowed to run transactions for him as he was an immediate family member. Having her son come to her window prevented the claimant from helping the next customer in line. The claimant should have had her son go to another teller for assistance and then spoken to him after she had assisted waiting customers. The claimant knew she could not run a transaction for her son or her daughter who did have an account at the bank.

As the claimant's son was at her window, the claimant filled out a deposit ticket for her daughters account, took the eighty dollar deposit from her son and ran the transaction. She violated the employer's policy by doing so. The claimant knew what she had done was a

violation of the employer's policy and she reported to her manager immediately what she had done. The employer's policy does not allow employees to violate the policy if they tell a manager about the violation and void the transaction.

The employer discharged the claimant as per their policy. The claimant did not engage in "forced balancing." There is no indication that any other employee who engaged in family transactions was treated any differently than the claimant. The claimant was disciplined as the policy indicated. The employer communicated with their human resources department to see if any lesser penalty could be imposed upon the claimant. Per the directions from the human resources contact the claimant was discharged in accordance with the policy that prohibits tellers from running transactions for family members.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

As a bank the employer does not allow tellers to run transactions for family members in an effort to prevent theft or fraud or even the appearance of theft or fraud. Nothing in the policy allows a teller to run the prohibited transaction if she later reports that she has done so or if she reverses the transaction and has her supervisor run it later. The claimant knew the policy and that she was required to follow the policy at all times. There was no reason for her to call her son to her teller window knowing she was not allowed to assist him because he was a member of her immediate family. The claimant could have let her son be waited on by another teller and spoken to him later or after he had finished his business and she had waited on other customers. The claimant had been put on notice that this policy was to be taken seriously and even one violation could lead to her discharge. There was no emergency that required she wait on her son. Considering all of the circumstances her actions as a teller supervisor are sufficient job connected misconduct to disqualify her from receipt of unemployment insurance benefits. Benefits are denied.

DECISION:

The August 3, 2017, (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs