

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KARRI L MURPHY**  
Claimant

**APPEAL NO: 17A-UI-10169-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**US BANK NATIONAL ASSOCIATION**  
Employer

**OC: 09/10/17**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the September 25, 2017, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 20, 2017. The claimant participated in the hearing. Traci Tobin, RCA Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time CRA Consultant for US Bank National Association from January 5, 2015 to September 7, 2017. She was discharged for allegedly violating the employer's code of ethics.

On September 6, 2017, an employee approached RCA Manager Traci Tobin and stated she loaned the claimant \$2,500.00 and had not been repaid to date. The employee had a copy of her check and stated she did not know what to do as her husband was pressuring her to get the money back. Ms. Tobin told her she had to report the situation to Human Resources and they would contact the employee. After investigating the situation, Human Resources and Ms. Tobin met with the claimant and she admitted borrowing the money from the other employee. Her daughter is a club volleyball player and her team travels out of state but the claimant could not keep up with the expenses. Her ex-husband died unexpectedly on Thanksgiving Day 2015 and the claimant's daughter found her father. The volleyball team helped her daughter cope with the loss of her father. The claimant was desperate to keep her daughter on the volleyball team. The other employee is a friend of the claimant's and offered to help her. She loaned the claimant \$2,500.00 in February 2017, and the claimant held the check until April 2017 looking for other options. When she could not find another option, she asked the other employee if she could cash the check and she said yes. The claimant continued to struggle financially and applied for a personal loan using her daughter's vehicle as collateral to repay her co-worker and

was approved for the loan. She was unaware she could have qualified for a personal loan before she borrowed the money from her co-worker. The employer terminated the claimant's employment September 7, 2017, for violating its Code of Ethics policies which address being financially responsible, personal finances, and the prohibition against participating in financial transactions with other employees, customers or suppliers. When the employer terminated the claimant's employment she could not secure the personal loan and was unable to repay her co-worker until the week of October 9, 2017, after she cashed in her 401K.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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).

The employer has the burden of proving disqualifying misconduct. *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 claimant borrowed the money from a co-worker who was also a friend and offered to lend her the money. The claimant and her co-worker were obviously good friends or the co-worker would not have loaned the claimant \$2,500.00, a substantial sum of money. It is not for the employer to be involved in the matter as the private loan did not have anything to do with the bank. The employer was not involved beyond the co-worker telling it the claimant had yet to repay the loan. Money was not stolen from the bank and the loan was not made from the bank. There is no evidence the claimant promised the co-worker she would be able to repay her immediately and indeed the evidence shows the claimant was in the process of securing a personal loan to repay her co-worker at the time of the termination.

Misconduct is defined "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..." The employer did not make any showing of how *its interests* were violated in this case. (Emphasis added).

Under these circumstances, the administrative law judge must conclude the claimant's actions were not work-related. Therefore, benefits are allowed.

**DECISION:**

The September 25, 2017, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn