

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDY D BARKLOW
Claimant

APPEAL NO. 08A-UI-02425-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

US BANK NATIONAL ASSOCIATION
Employer

OC: 02-10-08 R: 04
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 5, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 26, 2008. The claimant did participate. The employer did participate through Jen Schwindenhammer, Human Resources Generalist.

ISSUE:

Was the claimant discharged for work-related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a personal banker full time beginning October 26, 1993 through February 11, 2008 when she was discharged.

The claimant had opened accounts for family members including her mother and a niece over the previous year. The employer discovered that the claimant had opened the accounts around February 1, 2008 and the employer began the investigation. The claimant admitted that she had opened both of the accounts and that she knew that she should not have done so. The claimant admits that her actions were a violation of the employer's code of ethics policy and she had been trained on the policy. The claimant alleges that others who have violated the ethics policy have not been discharged or treated so harshly. The employer contends that the only time others were treated less harshly was when they engaged in a transaction accidentally on their own account and then came forward and reported their own violation. Those employees were given only written reprimands because they immediately reported the violation to the employer. The claimant did not report her violation to the employer.

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 § 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 claimant knew that she was not allowed to open accounts for family members but did so anyway. The claimant admits that she could have asked a coworker to perform the actions for her but did not do so. The claimant's disregard of the employer's rules in the code of ethics is misconduct substantial enough to disqualify her from receipt of benefits. The administrative law judge is not persuaded that the claimant was held to any higher standard than other employees. It was up to the employer to determine whether to discharge the claimant. The employer's policy put the claimant on notice that her failure to follow the code of ethics could lead to her discharge. Misconduct has been established. Benefits are denied.

DECISION:

The March 5, 2008, 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/css