

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATASHA B FRANCIS
Claimant

APPEAL NO. 07A-UI-06665-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

**OC: 06/03/07 R: 01
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Wells Fargo, filed an appeal from a decision dated June 28, 2007, reference 01. The decision allowed benefits to the claimant, Natasha Francis. After due notice was issued, a hearing was held by telephone conference call on July 23, 2007. The claimant participated on her own behalf. The employer participated by Store Manager Chris Teneyck and Service Manager Michelle Mills. Exhibit One was admitted into the record.

ISSUE:

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

FINDINGS OF FACT:

Natasha Francis was employed by Wells Fargo from June 19, 2006 until June 4, 2007, as a part-time teller. She received a copy of the employer's policies and procedures at the time of hire. The policy provides for immediate discharge of any employee who "force balances" their cash drawer.

On May 25, 2007, the claimant's self-audit report at the end of her shift showed that her drawer balanced. At the beginning of the claimant's next scheduled shift on May 29, 2007, Lead Teller Linda Schuttler did a random cash audit on her drawer and revealed it to be short by \$0.40. It appeared the claimant had done a forced balance to make the count match. She believed she had taken the necessary steps to "accept" the shortage, which is allowed for amounts under \$3.00, but apparently "got busy" and did not actually perform the required computer function.

The shortage was reported to Store Manager Chris Teneyck who waited until June 4, 2007, for Service Manager Michelle Mills to return before they jointly consulted with the corporate human resources department and notified the claimant she was discharged.

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 claimant was discharged for force balancing her drawer. Ms. Francis acknowledges she was off on May 25, 2007, but believed she had "accepted" the balance in the computer so it would adjust itself. It is apparent this was not done although she believed she had done it and only "got busy" and did not actually do the necessary work on the computer to accept. This is a violation of a known policy but conduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Newman v. IDJS, 351 N.W.2d 806 (Iowa App. 1984). This is a one-time error in judgment which the administrative law judge cannot conclude rises to the level of substantial, job-related misconduct.

DECISION:

The representative's decision of June 28, 2007, reference 01, is affirmed. Natasha Francis is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css