

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KRISTINE K OCONNOR**  
Claimant

**US BANK NATIONAL ASSOCIATION**  
Employer

**APPEAL 16A-UI-05861-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/01/16**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 19, 2016 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was discharged from employment for wanton carelessness in performing her work. The parties were properly notified of the hearing. A telephone hearing was held on June 13, 2016. The employer, U.S. Bank, National Association, participated through Rebecca Reichl, HR representative; Amanda Davis, sales and service manager; and Jason Hamer, branch manager. The claimant, Kristine K. O'Connor, participated initially. She disconnected from the hearing during Davis' testimony, and the administrative law judge's attempt to reconnect her was unsuccessful. The administrative law judge left claimant a message explaining that the hearing would continue and encouraging her to call back and participate in the hearing. Employer's Exhibits One through Seventeen were received and admitted into the record without objection.

**ISSUE:**

Was the claimant discharged for disqualifying job-related 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 from September 24, 2007 until this employment ended on May 2, 2016, when she was discharged.

During claimant's final shift, she failed to properly verify the identification of a patron who came through the drive-through to cash a check. This patron had in fact stolen a customer's information and had claimant asked for identification, she would have determined this and would not have cashed the check. This resulted in a \$1,000.00 loss to the branch. When Davis spoke to claimant about this incident, she had no explanation for what happened. Claimant was aware that she was expected to verify customers' identification, as the employer had both group and one-on-one discussions with her about it.

At the time claimant was discharged, she was on a final written warning for failing to properly run and complete a cash advance on January 8, 2016; resulting in her drawer being short \$225.00. (Employer's Exhibits Fourteen and Fifteen.) On December 31, 2015, claimant received a written warning for allowing a customer to access a safe deposit box that was not listed as an owner or signer for that box. (Employer's Exhibits Seven and Eight.) On May 7, 2015, claimant received a written warning for failing to abide by the new account five-day hold policy. (Employer's Exhibits Sixteen and Seventeen.) Under the policy, claimant should have deposited the customer's \$1,910.00 check and only allowed them to withdraw \$200.00 immediately. Instead, claimant allowed the customer to withdraw \$1,710.00 immediately. The \$1,910.00 check was subsequently returned, ultimately resulting in a loss to the bank. (Employer's Exhibit Sixteen.) Claimant was aware her job was in jeopardy and that she would lose her job for an additional policy violation.

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

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

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.

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).

Misconduct must be “substantial” to warrant a denial of job insurance benefits. *Newman v. Iowa Dep’t of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). When based on carelessness, the carelessness must actually indicate a “wrongful intent” to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer’s interests. *Henry v. Iowa Dep’t of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp’t Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

The final incident that led to claimant’s discharge is likely disqualifying on its own. Claimant failed to verify the identification of a customer, in deliberate disregard of the employer’s interest in protecting its customers against theft and in protecting its own assets. Additionally, the employer presented credible testimony that claimant routinely violated policies for properly verifying customer information and safeguarding the bank against loss. While one policy violation may be mere negligence, claimant engaged in a pattern of disregarding policies that were put in place for the benefit of both the employer and the customer. Claimant’s repeated failure to accurately perform her job duties after having been warned is evidence of negligence or carelessness to such a degree of recurrence as to rise to the level of disqualifying job-related misconduct. See Iowa Admin. Code r. 871-24.32(1)a. Benefits are withheld.

**DECISION:**

The May 19, 2016 (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as claimant is deemed eligible.

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Elizabeth Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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