

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GRACE E HANSEN
Claimant

APPEAL NO. 12A-UI-12772-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 09/23/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated October 11, 2012, reference 01, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on November 27, 2012. Claimant participated. The employer participated by Mr. John O'Fallon, Hearing Representative and witnesses Jenni Overton, Collection Supervisor and Shane Smith, Collection Manager.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Grace Hansen was employed by Wells Fargo Bank NA from January 17, 2012 until September 27, 2012 when she was discharged from employment. Ms. Hansen held the position of full-time collector I and was paid by the hour. Her immediate supervisor was Jenni Overton.

Ms. Hansen was discharged after it was determined that she had falsified the name of her supervisor, Jenni Overton, on a document verifying the wages that the claimant received from the company. Ms. Hansen had supplied the documentation to the department of human services and that agency had contacted Wells Fargo Bank to verify that Ms. Overton had in fact verified and signed the documentation. When confronted about the matter Ms. Hansen admitted that she had falsified the signature of her supervisor. Based upon the claimant's admission that she had engaged in the potential falsification a decision was made to terminate Ms. Hansen from her position of trust in the company's collection department.

It is the claimant's position that she should not have been discharged as her falsification was not directly related to work in the collections department.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does.

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 employer has the burden of proof in this matter. See Iowa Code section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. The focus is on deliberate, intentional or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

In this matter the evidence in the record establishes that Ms. Hansen held a position of trust with Wells Fargo Bank and had access to confidential financial information of bank customers. The claimant was discharged from her employment after the employer concluded and the claimant admitted intentional falsification on the part of Ms. Hansen on a document being submitted to the department of human services for childcare assistance. Because of the sensitive nature of the work that the claimant engaged in for the bank the employer was reasonable in concluding that the claimant's conduct was a disregard of the employer's reasonable standards of behavior that the employer had a right to expect of its employees under the provision of the Employment Security Law. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated October 11, 2012, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css