

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

LESLEY A MCALLISTER
430 WILDWOOD DR
OTTUMWA IA 52501

COMMUNITY 1ST CREDIT UNION
ATTN HUMAN RESOURCES
235 RICHMOND AVE
PO BOX 737
OTTUMWA IA 52501

Appeal Number: 06A-UI-07998-CT
OC: 07/09/06 R: 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Lesley McAllister filed an appeal from a representative's decision dated August 2, 2006, reference 01, which denied benefits based on her separation from Community 1st Credit Union. After due notice was issued, a hearing was held by telephone on August 24, 2006. Ms. McAllister participated personally. The employer participated by Terry Maloy, CEO, and Teri Orgtjes, Branch Manager. Exhibit One was admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. McAllister was employed by the credit union

from May 8 until July 7, 2006 as a teller. She worked from 25 to 35 hours each week. She was discharged due to unsatisfactory job performance during the 90-day probationary period.

Ms. McAllister received a written warning and one-day suspension on June 20 due to errors she committed in handling accounts. On two occasions, she deposited funds into the incorrect account. On another occasion, she processed a withdrawal from a customer's savings account but failed to deposit the funds into the customer's checking account as requested. Ms. McAllister also cashed a check for \$260.00 when the customer's account only had a balance of \$6.49. There were other occasions on which she had shortages at the end of the day. The errors meant time had to be expended to look for the errors and make corrections. Ms. McAllister was advised at the time of the warning that she could be discharged if she continued to make errors.

On July 5, Ms. McAllister's drawer was off by \$50.00 but she had reported it as balanced. The employer believed she had miscounted her drawer. On July 6, a customer complained about Ms. McAllister's handling of a request for a cashier's check. When she first printed the check, she misspelled the payee's name. When she redid the check, she entered the amount incorrectly. She then requested that another teller complete the transaction for the customer. As a result of the errors on July 5 and July 6, Ms. McAllister was discharged on July 7, 2006. The July errors were the only errors since the warning of June 20.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. McAllister was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. McAllister was discharged for making errors in the performance of her job. She made a number of errors prior to being warned on June 20. Her performance improved substantially after the warning. After the warning, there was one occasion on which she miscounted her drawer and another occasion on which she twice failed to print a cashier's check correctly. The incidents do not represent instances of substantial misconduct. An individual who is discharged during the probationary period because she cannot meet the employer's standards is not guilty of misconduct within the meaning of the law. See 871 IAC 24.32(5).

While the employer may have had good cause to discharge Ms. McAllister, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). The evidence failed to establish that she deliberately and intentionally acted in a manner she knew to be contrary to the employer's standards or interests. For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated August 2, 2006, reference 01, is hereby reversed. Ms. McAllister was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/pjs