

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALLISON HAGEMANN**  
Claimant

**APPEAL NO: 09A-UI-14629-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 08/30/09**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct  
Iowa Code § 96.3-7 - Overpayment

**STATEMENT OF THE CASE:**

Wells Fargo Bank NA (employer) appealed an unemployment insurance decision dated September 23, 2009, reference 01, which held that Allison Hagemann (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 28, 2009. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through Sharon Bribriesco, Manager. Employer's Exhibits One and Two were admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-related misconduct?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time personal banker from March 19, 2007 through August 28, 2009. She was discharged for falsifying documentation and she is not eligible for rehire. The claimant signed an acknowledgement and understanding of company policies on March 19, 2007; these policies included the employer's handbook, the code of ethics and business conduct, the information security policy and the human resource systems authorization. The employer has its employees take an ethics test each year. The claimant took and passed her ethics tests on April 12, 2007; October 17, 2008; and July 8, 2009. The employer's ethics policies require employees to act with honesty, integrity, and trustworthiness. Company policy prohibits falsification of any company and/or personal information provided and violation of this policy results in immediate termination and could also result in a finding of "not eligible for rehire."

When opening a bank account, the employer needs two forms of identification, a primary and secondary document. "To help the government fight the funding of terrorism and money

laundering activities, the USA PATRIOT Act sets minimum standards for all financial institutions to identify each person who opens an account or who is added to an existing account.” These requirements are described in the USA PATRIOT Act’s Customer Identification Program (CIP). The primary document must be government issued with a current date and must have a document or identification number, contain the individual’s picture, includes the individual’s name, current physical address and signature. Typically driver’s licenses are used but a passport and a state identification card can also be used for the primary identification document.

The secondary document must be current and must match the name on the primary identification used. It should also be issued by a recognized business, educational institution, or government agency; contain the signature of the individual that matches the primary identification; contain the individual’s current physical address if not included on the primary identification used. If neither ID contains the current physical address, additional documentation must be obtained that contains the current physical address.

The claimant was trained in the CIP program and knew what was required of her under the USA PATRIOT Act when opening a new account. On August 27, 2009 she opened a checking account for a customer. The customer did not have a primary identification document. She did not have a driver’s license because she said she had been picked up by the police and her license was taken. She did have a student identification card and a social security card. The customer should not have been able to open the account without first procuring a government issued identification card. The claimant opened the checking account and fabricated a driver’s license number with the date of issue and the expiration date.

The customer went to a different branch on August 28, 2009 to withdraw money. The banker assisting her noticed the account was just opened and requested to see the customer’s driver’s license, as listed on her account. The customer said she did not have a driver’s license and explained that she told that same information to the claimant on the previous day. The banker’s manager subsequently called the claimant’s bank to speak with the manager but the manager was not available so the call was transferred to the claimant. After the claimant’s manager returned, the claimant told her what had happened because she did not want the manager to learn about it from someone else. The claimant admitted what she had done and admitted that she knew it was wrong at the time. The manager spoke with the employer and the claimant was discharged at that time.

The claimant filed a claim for unemployment insurance benefits effective August 30, 2009 and has received benefits after the separation from employment.

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

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant was discharged for falsifying customer information entered into the employer's computer on August 27, 2009. She fabricated information from a non-existent government issued identification card so that the customer who did not have a government issued ID card could open a checking account. She admitted she had falsified the information and admitted she knew it was wrong when she did it. The claimant's actions were in violation of company policy and the USA PATRIOT Act. Her falsification shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

Iowa Code § 96.3(7) provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment recovery law was updated in 2008. See Iowa Code § 96.3(7)(b). Under the revised law, a claimant will not be required to repay an overpayment of benefits if all of the following factors are met. First, the prior award of benefits must have been made in connection with a decision regarding the claimant's separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated at the initial fact-finding proceeding that resulted in the initial decision to award benefits. If Workforce Development determines there has been an overpayment of benefits, the employer will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received could constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

**DECISION:**

The unemployment insurance decision dated September 23, 2009, reference 01, is reversed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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