

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK HALLAMORE
Claimant

APPEAL NO. 09A-UI-08700-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BANK OF AMERICA NA
Employer

OC: 05/03/09
Claimant: Respondent (2-R)

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Bank of America filed an appeal from a representative's decision dated June 9, 2009, reference 01, which held that no disqualification would be imposed regarding Mark Hallamore's separation from employment. After due notice was issued, a hearing was held by telephone on July 2, 2009. Mr. Hallamore participated personally. The employer participated by Steve Geniuk, VP/Senior Fraud Investigator.

ISSUE:

At issue in this matter is whether Mr. Hallamore was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hallamore was employed by Bank of America from March 27, 2007 until May 1, 2009. He was a full-time employee in training to be a bank manager. He was discharged for violating bank standards.

The employer provides certain financial benefits to students opening bank accounts. The \$5.95 monthly maintenance fee is waived as is the charge for the first overdraft. The individual must be at least age 16 and attending school on a full-time basis. The bank employee is required to obtain proof that the individual is a student. On March 25, Mr. Hallamore opened three student accounts and on March 27 he opened one student account. None of the four individuals were students and Mr. Hallamore was aware of this fact when he opened the accounts. After his actions came to the employer's attention, Mr. Hallamore was discharged on May 1, 2009. The above matter was the sole reason for the separation.

Mr. Hallamore filed a claim for job insurance benefits effective May 3, 2009. He has received a total of \$2,454.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

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). Mr. Hallamore was discharged for falsifying bank records. He indicated that four new accounts had been opened by students, which was not the case. The employer did not dispute his contention that he had other methods by which he could have legitimately affected a waiver of bank fees.

The fact that Mr. Hallamore had the authority to use other means to give the four customers a discount is immaterial. The fact remains that he did not use those alternative means to provide a discount. He deliberately and intentionally designated the accounts as student accounts, which constituted a falsification of bank records. Banks are highly regulated institutions. As such, the employer had the right to expect that its records would only reflect the true status of customers and customer accounts. Falsifying documents constitutes a substantial disregard of the standards an employer has the right to expect. For the above reasons, the administrative law judge concludes that substantial misconduct has been established and benefits are denied.

Mr. Hallamore has received benefits since filing his claim. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated June 9, 2009, reference 01, is hereby reversed. Mr. Hallamore was discharged for misconduct in connection with his employment. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit, provided he is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Mr. Hallamore will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css