

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RODNEY A CHANCELLOR**  
Claimant

**APPEAL NO. 09A-UI-11473-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 07/05/09**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct  
871 IAC 24.32(8) – Current Act of Misconduct

**STATEMENT OF THE CASE:**

Wells Fargo Bank filed a timely appeal from a representative's decision dated August 5, 2009, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 25, 2009. The claimant participated personally. The employer participated by Jennifer Houch, Collection Supervisor II.

**ISSUE:**

The issue is whether the claimant was discharged for a current act of misconduct sufficient to warrant a denial unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds: Rodney A. Chancellor was employed by Wells Fargo Bank NA from May 5, 2008 until July 8, 2009 when he was discharged from employment. Mr. Chancellor held the position of full-time loan specialist and was paid by the hour.

Mr. Chancellor was discharged when he exceeded the permissible number of attendance infractions allowed under bank policies. The claimant's most recent violation of the employer's "no-fault" attendance policy occurred on June 15, 2009 when the claimant was absent and provided proper notification to the employer. The claimant was allowed to continue working and performing services for Wells Fargo Bank NA from June 15 until July 8, 2009 when he was discharged by the employer following a review by upper management. No disqualifying conduct on the part of the claimant took place between June 15, 2009 and the claimant's discharge date.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant was discharged for no disqualifying current act of misconduct sufficient to warrant a denial of unemployment insurance benefits.

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.

871 IAC 24.32(8) provides:

(8) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

The evidence in the record establishes that the claimant's most recent attendance infraction took place on June 15, 2009 when the claimant was absent. His absence was properly reported to the company. Although the claimant had exceeded the employer's no fault policy at that time he was not discharged but instead was allowed to continue working for a substantial period of time until July 8, 2009 when he was discharged from employment.

The administrative law judge finds no current act of misconduct sufficient to disqualify the claimant from receiving unemployment insurance benefits. Benefits are allowed.

**DECISION:**

The representative's decision dated August 5, 2009, reference 01, is affirmed. The claimant was dismissed for no disqualifying reason. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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