

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIELLE R DAWSON**  
Claimant

**APPEAL NO: 10A-UI-03502-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 01/31/10**  
**Claimant: Respondent (2/R)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed a representative's February 24, 2010 decision (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. A telephone hearing was held on May 18, 2010. The claimant participated in the hearing. Maxine Piper represented the employer. Julie Knudtson and Linda Bergstrom appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on November 10, 2009. The claimant worked as a full-time loan adjuster specialist. Knudtson supervised the claimant.

As a result of a very high volume of work the employer had to process, the employer made a business decision that some employees would be temporarily reassigned to different jobs. The claimant worked as a loan negotiator. She learned on February 4 she would be temporarily assigned to setting up files. She became upset when she learned she would be setting up files. The claimant made a comment, "If I'm expected to set up files, someone will have to show me how." The claimant then left work without authorization. A short time later the claimant left Knudtson a message indicating she had left work because her emotions took over. She also stated she was upset because she felt setting up files was beneath her. The claimant questioned Knudtson on how she chose people to negotiate or set up files.

On February 4 when Knudtson returned the claimant's phone call, the claimant indicated she would return to work at 12:45 p.m. When the claimant returned to work, Knudtson talked to her. During this conversation, Knudtson explained that their site was in crisis mode as a result of the high volume of work to process. She further explained that she made a business decision about which employees set up files and which employees negotiated. Knudtson emphasized that this

was only a temporary assignment, the claimant's salary would not change and she would return to work as a negotiator after the high volume of workload had been resolved. Knudtson then asked the claimant to go home and think about whether she would accept the temporary job and meet the employer's expectations.

The claimant decided to accept the temporary assignment and returned to work on February 5, 2010. Before the claimant arrived at work, Knudtson sent her an email that reiterated the expectations concerning the temporary job assignment. Knudtson asked that the claimant respond to her email. After the claimant reported to work and had an opportunity to read Knudtson's email, Knudtson personally asked the claimant to respond to the email. The claimant responded, "I do not understand why I have this set of expectations. Does everyone have this same email with these expectations?" Knudtson immediately asked the claimant to go to the conference room because she did not consider the claimant's response acceptable on the floor.

While in the conference room, the claimant was upset, irritated and angry. Knudtson repeated the expectations and the claimant interrupted her. The claimant told Knudtson that she was treating the claimant unfairly and like a child. The claimant raised her voice because she was upset. After Knudtson told her to calm down, the claimant eventually did and apologized for her behavior. When the conversation concluded, the claimant went to the restroom and then back to her desk. Within five minutes of the initial conversation, the employer discharged the claimant. The employer discharged the claimant for violating the employer's professional conduct policy when she made comments at her desk on February 4 and 5.

The claimant established a claim for benefits during the week of January 31, 2010. The claimant has filed for and received benefits since January 31, 2010.

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

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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 propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer told the claimant and other team members on February 3, the unit was in a crisis mode because of the high volume of work that needed to be processed. The claimant then knew some employees would be temporarily reassigned. The claimant believed her temporary

assignment to set up files was beneath her and she was a better negotiator than some of the people who had been assigned that job. On February 4, after the claimant walked out, she contacted the employer in an attempt to salvage her employment. After talking to the claimant and explaining the employer's expectations for the temporary job, the employer gave the claimant time to think about her temporary assigned job the rest of February 4.

Since the claimant had been upset and walked out on February 4, it was not unreasonable for the employer to have the claimant acknowledge in writing she knew and understood the employer's expectations for the temporary assignment. Instead, of acknowledging the expectations, the claimant further challenged and questioned Knudtson's instructions and decision. The claimant did this on the floor where team members could observe her conduct. The claimant's conduct on the floor and in the conference room on February 5, 2010 shows an intentional and substantial disregard of the standard of behavior the employer had a right to expect from the claimant. The employer discharged the claimant for work-connected misconduct.

An issue of whether the claimant has been overpaid or is eligible for a waiver of any overpayment will be remanded to the Claims Section.

**DECISION:**

The representative's February 24, 2010 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of January 31, 2010. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employers' account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is Remanded to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css