

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

YVETTE ORTEGA
Claimant

APPEAL NO: 12A-UI-14645-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 11/04/12
Claimant: Respondent (2/R)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 5, 2012 determination (reference 03) 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. The claimant did not respond to the hearing notice or participate in the hearing. Frankie Patterson represented the employer and Timothy Ryan testified on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on November 7, 2011. She worked as a part-time collector. The employer did not notice any problems with the claimant's job performance until August 8, 2012, or after she returned from her maternity leave.

When the claimant returned to work after her maternity leave, she completed training again concerning Federal compliances she had to follow to do her work satisfactorily. On September 14, 2012, the claimant received a written warning for having six compliance violations. The primary issues involved leaving a message in states a message was not allowed and for failing to verify a customer's identity before she gave the person confidential information. The employer gave her a checklist of the compliances she had to complete. The checklist was put on her computer monitor so she could follow the list during calls.

On October 12, the claimant received her second written warning for failing to follow some of the same Federal compliances when she called and talked to customers. The October 12 warning informed her that further compliance problems could result in her termination.

The employer has a quality monitor team who listens to calls made by collectors. A quality monitor employee listened to one of the claimant's October 20 calls. This call involved a

customer who made a payment over the phone. The claimant neglected to provide the employer's callback phone number to the customer. This violated Federal compliance standards. The employer discharged the claimant on November 2, 2012, for her repeated failure to follow Federal compliance procedures.

The claimant established a claim for benefits during the week of November 4, 2012. She has filed for and received benefits since November 4.

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 law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

After the claimant received two written warnings in a month, she knew or should have known her job was in jeopardy. Without the claimant's testimony to explain what steps she took to make sure she followed all Federal compliances, her repeated failure to follow all compliances goes beyond negligence and amounts to work-connected misconduct. As of November 4, 2012, the claimant is not qualified to receive benefits.

Since the claimant has received benefits since November 4, an issue of overpayment or whether she is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's December 5, 2012 determination (reference 03) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of November 4,

2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs