

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

KIMBERLY A STINN  
1732 – 9<sup>TH</sup> ST  
NEVADA IA 50201-1216

US BANK NATIONAL ASSOCIATION  
c/o JON-JAY ASSOCIATES INC  
PO BOX 182523  
COLUMBUS OH 43218-2523

Appeal Number: 06A-UI-07338-CT  
OC: 06/11/06 R: 02  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

US Bank National Association filed an appeal from a representative's decision dated July 7, 2006, reference 01, which held that no disqualification would be imposed regarding Kimberly Stinn's separation from employment. After due notice was issued, a hearing was held by telephone on August 8, 2006. Ms. Stinn participated personally. The employer participated by Kari Martindale, Branch Manager, and Angela Imming, Retail Market Manager. Exhibits One through Four were admitted on the employer's behalf.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Stinn was employed by US Bank from June 4, 2001 until June 16, 2006. She was last employed full time as a teller. She was discharged after the employer discovered on June 15 that she had cashed two checks in violation of policy.

When a customer of US Bank presents a check for cash, the customer must have a like amount in their account unless the check presented is drawn on a US Bank account. On June 3, 2006, Ms. Stinn cashed a customer's check for \$210.00 even though the customer's account balance was \$.55 and the check presented was not drawn on a US Bank account. She cashed a check for the same customer for \$225.00 on June 4 when the customer's account still had a \$.55 balance. The check presented on June 4 was not drawn on a US Bank account. As it turned out, the customer had stolen checks from her mother and was cashing them without her mother's permission. As a result of the policy violations, Ms. Stinn was discharged on June 16, 2006.

In making the decision to discharge, the employer also considered other violations by Ms. Stinn. On February 14, 2006, she received a written warning because of the handling of a foreign draft. The draft was presented to another teller, who called Kari Martindale for assistance. Ms. Stinn was directed to print the "Foreign Item Processing Form" for the coworker from the computer. Ms. Stinn completed the necessary blanks on the form and gave it to the other teller. Neither she nor the other teller checked the box to indicate whether the draft was to be available for immediate credit or held. It is the bank's policy to put a hold on drafts for \$5,000.00 or more. It is also policy to release drafts for credit if the teller has not checked that it should be held. Because a hold had not been placed on the foreign draft, Ms. Stinn received a written warning.

On April 13 and May 30, 2006, Ms. Stinn received written warnings because she had too much cash on hand. She was not to have more than \$12,500.00 in her area. On April 13, she had over \$20,000.00 in excess cash. She had received a shipment of cash and money for the ATM. Ms. Stinn did not have someone count the money with her so that the excess cash could be placed in the vault. On May 30, she had over \$14,000.00 in excess cash on hand.

Ms. Stinn filed a claim for job insurance benefits effective June 11, 2006. She has received a total of \$277.00 in benefits since filing her claim.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Stinn was separated from employment for any disqualifying reason. 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). Ms. Stinn was discharged for violating the employer's policies. She jeopardized the employer's assets on at least four occasions. She was warned on April 13 about having excess cash on hand. In spite of the warning, she again had excess cash on May 30. Although Ms. Stinn may not have received the warnings (Exhibits Three and Four), she was aware of the incidents of having excess cash and knew that having excess cash was contrary to policy. By limiting the amount of cash tellers have on hand, the employer can limit its losses in the event of robbery. Having excess cash on hand is clearly contrary to the employer's interests.

Ms. Stinn also caused financial loss to the employer by cashing checks for a customer who did not have funds to cover the checks, which were not drawn against a US Bank account. The customer did not have sufficient funds to compensate the employer in the event the checks were not honored by the payor's bank. There was no justification for her conduct in cashing the checks when the customer did not have sufficient funds to cover them.

The employer's evidence established a pattern and practice on Ms. Stinn's part of disregarding the best interests of the employer by creating situations in which the employer would potentially incur losses. She did not use due care in safeguarding assets within her control. Ms. Stinn's conduct with regard to the foreign draft did not constitute an act of misconduct as she was only assisting another teller. She did not know that the draft would be released for immediate credit even though she had not indicated it should. However, her conduct in having excess cash on two occasions, once after warning, and in twice cashing non-US Bank checks without compensating amounts in the customer's account constituted a substantial disregard for the employer's interests. For the reasons cited herein, the administrative law judge concludes that the employer has satisfied its burden of proving disqualifying misconduct. Accordingly, benefits are denied.

Ms. Stinn has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated July 7, 2006, reference 01, is hereby reversed. Ms. Stinn was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Stinn has been overpaid \$277.00 in job insurance benefits.

cfc/pjs