

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACKIE D MILLER
Claimant

APPEAL NO. 07A-UI-04448-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIRST AMERICAN BANK
Employer

**OC: 03/18/07 R: 02
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

Jackie Miller filed an appeal from a representative's decision dated April 20, 2007, reference 01, which denied benefits based on her separation from First American Bank. After due notice was issued, a hearing was held by telephone on May 17, 2007. Ms. Miller participated personally. The employer participated by Pam Hanson, Director of Human Capital; Jody Deimel, Director of Internal Controls; Becky Willrich, Mortgage Processing Supervisor; John Ollendick, Executive Vice President for Retail Banking; and Bill Sajen, Vice President for Commercial Lending. Exhibits One, Two, and Three were admitted on the employer's behalf.

ISSUE:

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

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. Miller was employed by First American Bank from July 10, 2006 until March 22, 2007. She was employed full time as a loan processor. She was discharged for accessing a customer's account for personal reasons.

The customer whose account was accessed is an individual with whom Ms. Miller has been having an "on again-off again" romantic relationship for several years. There were occasions on which she accessed his accounts at his request to assist in transactions. There were other occasions on which she accessed his bank account solely to track his possible whereabouts. She acknowledged that she accessed his accounts at least once weekly for personal reasons. When their personal relationship was off at some point in early 2007, the customer obtained a new telephone number. Because he would not give Ms. Miller the new number, she obtained it from a third party. When she did not have the number available at the bank, she accessed his bank records to get his new telephone number and called him.

On March 21, the employer received a complaint from the customer concerning the fact that Ms. Miller had his telephone number and was calling him. The employer reviewed its records to determine if Ms. Miller obtained the number by looking at bank records. After determining that she had accessed the customer's account with no work-related reason for doing so, the employer spoke with Ms. Miller on March 22. She acknowledged that she had accessed the customer's account in the past for personal reasons. The employer's work rules prohibit employees from accessing customer records unless it is in the course of their normal bank duties. As a result of her conduct, Ms. Miller was discharged on March 22, 2007. The above matter was the sole reason for the discharge.

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). Ms. Miller was discharged for accessing a customer's bank records for personal reasons. The administrative law judge appreciates that the customer may have allowed her access on past occasions. However, those occasions represent times he sought her assistance in her role as a bank employee. Under such circumstances, her conduct would be permissible.

Ms. Miller accessed the customer's account on other occasions only because she wanted to know where he was spending money so she could keep tabs on him. Her actions were in no way related to her job at the bank. The fact that she was having a personal relationship with the customer was not authorization to monitor his personal finances. Ms. Miller was aware of the bank's policies and knew her actions were not authorized. Her conduct was clearly contrary to the standard of behavior she knew the employer expected of her. The administrative law judge concludes that substantial misconduct has been established by the evidence. Accordingly, benefits are denied.

DECISION:

The representative's decision dated April 20, 2007, reference 01, is hereby affirmed. Ms. Miller was discharged for disqualifying misconduct. 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.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css