

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE M VROTSOS

Claimant

AMERICAN TRUST & SAVINGS BANK

Employer

APPEAL NO: 10A-UI-16900-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/10/10

Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated December 3, 2010, reference 01, that held she was discharged for misconduct on October 12, 2010, and benefits are denied. A telephone hearing was scheduled for January 26, 2011. The claimant and the employer did not participate.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record finds: The claimant last worked for the employer as a full-time financial services representative on October 12, 2010. The employer discharged claimant for an unexplained cash shortage of \$349.00 that occurred on September 28, 2010, and repeated violation of policy by conducting unauthorized bank transactions.

The claimant and employer did not respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on October 12, 2010.

Since the claimant and employer did not participate in the hearing, the decision was based on the fact-finding record. The record shows claimant could not explain a large cash shortage that occurred on September 28. When the employer investigated the incident, it learned she conducted numerous bank transactions that involved relatives without authorization. These actions constitute job disqualifying misconduct.

DECISION:

The department decision dated December 3, 2010, reference 01, is affirmed. The claimant was discharged for misconduct on October 12, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs