

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAWNA R WOOLERY
Claimant

APPEAL NO. 12A-UI-05100-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 04/08/12
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 26, 2012, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 29, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer. Kelley Landolphi, the employer's representative, requested to be excused from the hearing when he was notified the employer's witness who was scheduled to participate in the hearing was not available. The request was granted. Exhibit A was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full-time as a collector from January 19, 2009, to May 11, 2011. After May 11, the claimant was excused from working by her doctor. She was on a medical leave and short-term disability until January 11, 2012, when she was released to return to work without restrictions by her doctor.

During the time she was off work, her position was eliminated for economic reasons. When she offered to return to work in January 2012, she was informed that her position was not available. The employer placed the claimant on a 90-day job search leave and informed her that if she did not find a job in the company within 90 days, she would be terminated.

The claimant applied and interviewed for numerous job openings during the next 90 days, but was not hired for any of the positions. As a result, on April 10, 2012, the employer sent a letter to the claimant informing her that her employment was terminated.

The claimant filed for unemployment insurance benefits during the week of April 8, 2012. She was able to and available for work as of April 8.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. The evidence shows the claimant never quit her employment. She was discharged on April 10, 2012, because her position had been eliminated and she had not secured employment during the 90-day job search period.

The next issue in this case is whether the claimant was discharged for work-connected misconduct.

The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

While the employer may have been justified in discharging the claimant based on its policies, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated April 26, 2012, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw