

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICHOLAS B RYAN**  
Claimant

**WELLS FARGO BANK NA**  
Employer

**APPEAL NO: 11A-UI-03474-S**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/23/11**  
**Claimant: Appellant (2)**

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 March 11, 2011, reference 01, that held he voluntarily quit without good cause on January 24, 2010, and benefits are denied. A hearing was held on April 27, 2011. The claimant participated. 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 heard the witness testimony, and having considered the evidence in the record, finds: The claimant began employment on September 21, 2009, and last worked as a full-time collections supervisor on January 24, 2011. The claimant's supervisor met with claimant on January 24 and told him his employment was ending that day due to an unsatisfactory work performance for the last two weeks. He was allowed to gather his personal items and the employer escorted him from the premises.

The employer failed to appear for the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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 failed to establish claimant was discharged for misconduct in connection with employment on January 24, 2011.

The employer failed to participate in this hearing and offer evidence of any job disqualifying misconduct.

**DECISION:**

The department decision dated March 11, 2011, reference 01, is reversed. The claimant was not discharged for misconduct on January 24, 2011. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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