

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA L SCHMITZ
Claimant

APPEAL NO. 09A-UI-03927-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

**Original Claim: 02/08/09
Claimant: Respondent (2/R)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Wells Fargo Bank NA (employer) appealed a representative's March 3, 2009 decision (reference 01) that concluded Jessica L. Schmitz (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for non-disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 3, 2009. The claimant responded to the hearing notice but was not available for the hearing. Bobbie Short, the manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on July 24, 2006. She worked as a full-time loan service specialist. Short was her supervisor. Prior to January 16, 2009, the employer talked to the claimant about attendance issues. The claimant's employment did not end because of her attendance.

The employer's security information policy requires employees to put customer's security information in a "destruction" box that was on the claimant's desk. Before the claimant left work, the employer required her to put the papers in this box in a shredder. On January 16, 2009, the claimant left sensitive customer security information in her destruction box. The destruction box was not locked or emptied when the claimant left work. The employer gave the claimant a verbal warning for failing to follow the employer's security policy. The claimant indicated she forgot to take care of this before she left work.

On January 21, the claimant again left customers' sensitive security information in her destruction box without taking the papers to the employer's shredder or locking up the destruction box. The claimant told Short she could not believe she had done this again. The employer gave the claimant a final written for her second violation. The employer warned the claimant that her job was in jeopardy.

On February 9, Short received information that on February 7, the claimant failed to process four payoff checks. As a result of the claimant's failure to process these checks, the employer lost money. When the employer talked to claimant about the February 7 incident, she again could not believe she had done this. On February 12, 2009, the employer discharged the claimant for her repeated failure to follow the employer's policies. After the claimant had been discharged, the employer found four to six checks in a notebook that the claimant should have processed on February 10, but did not.

The claimant established a claim for benefits during the week of February 8, 2009. She has filed for and received benefits since February 8, 2009.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's failure to follow the employer's security policy and failure to timely process payoff checks amounts to negligence or carelessness to such a degree that she committed work-connected misconduct. Therefore, as of February 8, 2009, the claimant is not qualified to receive benefits.

This issue of overpayment or whether the claimant is eligible for a waiver of any overpayment shall be remanded to the Claims Section to determine.

DECISION:

The representative's March 3, 2009 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of February 8, 2009. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw