

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL C AVERY**  
Claimant

**APPEAL NO. 06A-UI-10890-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 10/08/06 R: 02**  
**Claimant: Respondent (2)**

Section 96.5(2)a – Discharge  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The employer, Wells Fargo, filed an appeal from a decision dated November 2, 2006, reference 01. The decision allowed benefits to the claimant, Daniel Avery. After due notice was issued, a hearing was held by telephone conference call on November 29, 2006. The claimant participated on his own behalf and Jay Hickman. The employer participated by Assistant Vice President Trent Linderman. Exhibit One was admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Daniel Avery was employed by Wells Fargo from March 4, 2002 until October 6, 2006. He was a full-time service processing specialist. During the course of his employment, he attended yearly seminars on the Wells Fargo Code of Ethics. Section 3.2(c) requires employees to keep accurate records to the best of their ability, and any falsification of company documents may be grounds for discharge.

On September 20, 2006, the claimant was processing a customer's loan application. The underwriter on the account specifically required written verification of the customer's employment. Mr. Avery contacted the employer and received verbal verification of employment and requested a written verification be faxed by the end of the day. No written verification was received and so the next day the claimant filled out a verification form and signed the name of the person to whom he has spoken the previous day. He wrote her name on the form as well.

On October 4, 2006, the account executive in the case was informed via e-mail by Mr. Avery that he had "written" the name of the person with whom he spoke on the verification of employment, but he did not specifically say he has signed her name. After that the claimant spoke with his manager, Jay Hickman, because he realized there might be a problem. Mr. Hickman was not informed the claimant had forged someone's signature, only that he had

“written” her name on the form. He was also not informed the underwriter had required a written verification. With his limited information from the claimant, Mr. Hickman approved the claimant’s submission of the verification form.

Vice President Trent Linderman was informed of the issue by the account executive and conferred with his superior. This was considered to be forgery of a company document and the claimant was discharged after the investigation concluded on October 6, 2006.

Daniel Avery has received unemployment benefits since filing a claim with an effective date of October 8, 2006.

## **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 claimant had been trained in the ethics requirements of the employer. He acknowledged that he signed someone else’s name on a company document and submitted it as written verification of employment for the customer. This is forgery. He did not check with his manager or the account executive to determine if this was acceptable based on a verbal verification. He asserted that processors are given some discretion, but acknowledged this was not the case when a written verification was required by the underwriter. His attempt to justify his actions by saying he had the “support” of his manager does not stand close scrutiny. He did not reveal all

of the pertinent information to his manager and carefully concealed that he had forged a signature, saying only that he had "written" the person's name on the form.

The record establishes the claimant knowingly falsified company documents. This is conduct not in the best interests of the employer and he is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of November 2, 2006, reference 01, is reversed. Daniel Avery is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$2,338.00.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw