

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KARA S PEREZ**

Claimant

**APPEAL NO: 12A-UI-09306-D**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BANK OF THE WEST**

Employer

**OC: 07/01/12**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Kara S. Perez (employer) appealed a representative's July 24, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Bank of the West (employer). After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held on August 29, 2012. The claimant participated in the hearing. Karen Smith appeared on the employer's behalf and presented testimony from one other witness, Marisa Williams. During the hearing, Employer's Exhibits One through Five were entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**OUTCOME:**

Affirmed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on January 5, 2009. Since July 2011 she worked full time as branch manager of one of the employer's Des Moines, Iowa locations. Her last day of work was July 3, 2012. The employer discharged her on that date. The stated reason for the discharge was falsification of bank documents.

On or about June 14 a customer service manager in the bank discovered that on May 18 the claimant had assisted a client open an account without a proper identification. The employer is subject to the federal Bank Secrecy Act requirements regarding proper identification of customers. Failure to comply with the requirements can expose the employer to liability for fines. Acceptable identification includes current state-issued driver's licenses, identification cards, Utah driving privilege card, passport or passport card, military identification card, alien registration card, Mexican Matricula consular card, province-issued Canadian driver's license.

Minors can open an account with only a school identification card, but there must also be a parent or guardian with proper identification on the account. The claimant was aware of these requirements.

The account the claimant authorized to be opened on May 18 was for an 18-year old (non-minor) who only had a school identification card and a social security card. The claimant entered the client's social security card in the field reserved for entering the "state-issued identification" number. When questioned, the claimant, indicated that she had "made the decision to open the account just putting something in the ID section, knowing this was not acceptable for me to do . . ." She further acknowledged that there had been other occasions in the past where she acted similarly, indicating "many times I have felt compassion for primarily Hispanic customers w/out legal status in opening accounts based on gut feeling and the reason and situations they have been faced with."

The employer informed the claimant immediately on or about June 14 that there would be a further inquiry and that there could be pending discipline. After the completion of the investigation, the claimant was discharged on July 3.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The claimant's violation of the bank identification requirements, particularly as a branch manager who is expected to lead by example, shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer. The employer discharged the claimant for reasons amounting to work-connected misconduct.

**DECISION:**

The representative's July 24, 2012 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of July 3, 2012. This disqualification continues until the claimant 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.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs