

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA J MUNDT
Claimant

APPEAL NO. 09A-UI-18487-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK
Employer

**Original Claim: 11/15/09
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Amanda Mundt filed an appeal from a representative's decision dated December 8, 2009, reference 01, which denied benefits based on her separation from Wells Fargo Bank. After due notice was issued, a hearing was held by telephone on January 21, 2010. Ms. Mundt participated personally. Carol Rice and Tiffany Bingham participated pursuant to subpoenas issued on Ms. Mundt's behalf. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Ms. Mundt was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Mundt was employed by Wells Fargo Bank from September 30, 2007 until November 17, 2009. She worked full-time in collections. She was discharged because of language she used towards another employee on October 28, 2009.

Ms. Mundt was at home on October 28 when she spoke with someone from the employer's human resources department about Family and Medical Leave Act benefits. She was not happy with the response she was getting and, at the close of the conversation, told the representative to "have a fucking good day." She returned to work on November 2, at which time she was told she could be discharged as a result of the language. She was notified of her discharge on November 17, 2009. Ms. Mundt was not given any other reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Mundt was discharged after she used profanity when speaking with a representative of the human resources department.

Ms. Mundt's profanity did not involve any name-calling. It was not used in the course of an argument or in the course of a refusal to perform work-related duties. The language was not used in the presence of others so as to undermine the representative's authority. It is unreasonable to expect employees to be docile and well-mannered at all times. The single "hot-headed" comment made by Ms. Mundt is not sufficient to establish a willful or wanton disregard of the employer's standards. While the employer may have had good cause to discharge her, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated December 8, 2009, reference 01, is hereby reversed. Ms. Mundt was discharged by Wells Fargo Bank, but disqualifying misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw