

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBORAH J JENSEN**  
Claimant

**APPEAL NO. 07A-UI-05868-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACCESS DIRECT TELEMARKETING INC**  
Employer

**OC: 08/27/06 R: 02**  
**Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Access Direct Telemarketing, Inc. (Access) filed an appeal from a representative's decision dated June 6, 2007, reference 02, which held that no disqualification would be imposed regarding Deborah Jensen's separation from employment. After due notice was issued, a hearing was held by telephone on June 28, 2007. Ms. Jensen participated personally. The employer participated by Jason Selmer, Program Manager, and Kim Marek, Quality Representative. The employer was represented by Alyce Smolsky of TALX Corporation. Exhibits One through Six were admitted on the employer's behalf.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Jensen was employed by Access from October 9, 2006 until May 15, 2007 as a full-time telephone sales representative (TSR). She was discharged due to unsatisfactory job performance. The discharge was prompted by a policy violation that occurred on May 15. A customer's social security number is required to run a credit check for a potential sale. The TSR is required to speak directly to the number holder to obtain permission to run a credit check. On May 15, Ms. Jensen failed to speak directly to the number holder to obtain the required permission. She had received a final written warning on March 21 for not obtaining the proper consent to run a credit check.

The warning of March 21 also addressed the fact that Ms. Jensen failed to properly recap the order for the customer and failed to read the legal disclosure notice verbatim. She received a written warning on April 16 for failing to offer rebuttals to a customer's objections. Access provides scripted responses to various objections that may be posed by customers. Ms. Jensen received a written warning on May 11 for not getting complete preliminary information and not

asking discovery questions. The warnings she received advised that her continued employment was in jeopardy if improvement was not shown.

Ms. Jensen filed an additional claim for job insurance benefits effective May 13, 2007. She has received a total of \$1,313.00 in benefits since filing her additional claim.

#### **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. Jensen received several warnings during the course of her employment with Access. For the most part, the warnings were for isolated failures in good performance. However, she failed to obtain the required authorization to conduct credit checks on two separate occasions.

On March 21, Ms. Jensen received what was designated a "final written" warning. One of the errors noted on the warning was the failure to obtain consent to run a credit check. Based on the warning, she knew or should have known she had to speak directly with the individual whose social security number would be used to run the credit check. In spite of the warning, Ms. Jensen again failed to obtain the proper authorization on May 15. It was contrary to policy to allow a roommate to authorize a credit check for a customer. Running unauthorized credit checks had the potential of subjecting the employer to legal difficulties. Because Ms. Jensen had been warned on the subject in March, the administrative law judge concludes that her continued disregard of the employer's standards regarding credit checks constituted disqualifying misconduct.

Ms. Jensen has received benefits since filing her additional claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

#### **DECISION:**

The representative's decision dated June 6, 2007, reference 02, is hereby reversed. Ms. Jensen was discharged by Access for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Jensen has been overpaid \$1,313.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw