

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

HEATHER L MANGRICH  
1661 OAKWOOD DR  
WATERLOO IA 50703

QWEST CORPORATION  
c/o EMPLOYERS UNITY INC  
PO BOX 749000  
ARVADA CO 80006-9000

Appeal Number: 04A-UI-08823-CT  
OC: 07/18/04 R: 03  
Claimant: Respondent (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Qwest Corporation filed an appeal from a representative's decision dated August 11, 2004, reference 01, which held that no disqualification would be imposed regarding Heather Mangrich's separation from employment. After due notice was issued, a hearing was held by telephone on September 8, 2004. Ms. Mangrich participated personally and was represented by Marcee Marken of Communications Workers of America Local #7108. The employer participated by Caryl Gilstrap, Call Center Supervisor, and was represented by Marcy Schneider of Employers Unity, Inc. Exhibits One through Four were admitted on the employer's behalf.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Mangrich was employed by Qwest Corporation from August 16, 1999 until July 22, 2004 as a full-time customer assistance agent. She was discharged for failing to meet the employer's standards on a consistent basis. Individuals calling for directory assistance first provide information regarding the request on a recording. At the same time, a tone is sounded and information is posted to the operator's computer screen. As the recording (PRS) is played back, the operator makes a search for the requested information. There is a light, which goes out to advise the operator that she may now talk to the customer. The operator is expected to give some type of closing to alert the customer that they are about to be transferred to a recording, which will provide the requested information. An operator such as Ms. Mangrich handles from 800 to 1,200 calls per day.

Operators are periodically scored on their performance during customer calls. They are expected to score at least 94 percent on all calls. On February 26, 2004, Ms. Mangrich received a written warning because of her handling of four calls on February 25. On the first call, she failed to greet the customer and the call disappeared off her screen. On the second call, the customer asked her to hold but she disconnected the call after holding for only 20 seconds. On the third and fourth calls, there was no PRS playback but Ms. Mangrich did not say anything to determine if a customer was on the line. She released the third call after 40 seconds and immediately released the fourth call.

Ms. Mangrich received a warning of dismissal on May 4, 2004. Her scores in March had been 100 percent. Her scores in April were 97.5, 95.5, and 83 percent. The 83 percent score was based on observations that Ms. Mangrich was abrupt, harsh, rushed, and condescending. There was also an observation that she failed to say anything at all to one customer. The warning of dismissal was reissued on June 18, 2004. On May 7 and June 10, she had received scores of 90 percent. Ms. Mangrich was suspended for three days on June 14 because of her low scores.

The decision to discharge Ms. Mangrich was due to a call of July 16. The employer considered her to be abrupt and argumentative. She interrupted the customer to say "here's your listing." Her score for the call was 91.5 percent. Ms. Mangrich was notified of her discharge on July 22, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Mangrich was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Mangrich was discharged because she failed to meet the employer's customer service standards on a consistent and sustained basis. The administrative law judge does not believe she deliberately or intentionally failed to meet the employer's standards. Given the volume of calls Ms. Mangrich handled on a daily basis, occasional lapses are to be expected. Her isolated failures to meet standards do not establish a pattern and practice of disregarding the employer's standards sufficient to result in disqualification from benefits.

While the employer may have had good cause to discharge Ms. Mangrich, conduct which 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). Because the employer has failed to establish substantial misconduct, no disqualification is imposed. See Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

DECISION:

The representative's decision dated August 11, 2004, reference 01, is hereby affirmed. Ms. Mangrich was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/pjs