

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

TIMOTHY P HAUSKINS
130 N 15TH AVE
HIAWATHA IA 52233

UNITED STATES CELLULAR CORP
C/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-05457-CT
OC: 04/04/04 R: 03
Claimant: Appellant (2)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Timothy Hauskins filed an appeal from a representative's decision dated May 4, 2004, reference 03, which denied benefits based on his separation from United States Cellular Corporation (USCC). After due notice was issued, a hearing was held by telephone on June 7, 2004. Mr. Hauskins participated personally. The employer participated by Bobbi O'Connell, Operations Support Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Hauskins was employed by USCC from September 18,

2000 until April 7, 2004 as a full-time field security administrator. On or about April 2, he received information that three individuals had been discharged. He shared the information with four other individuals. The same information would have appeared in a report to be issued two weeks later. Mr. Hauskins' conduct was considered to be a violation of the employer's code of conduct and, therefore, he was discharged on April 7, 2004.

The employer considered Mr. Hauskins' conduct to be a violation of standards because the information came to him in the course of his work. The information concerning the termination was felt to be confidential and not to be disseminated to other employees. The above incident was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Hauskins 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). Mr. Hauskins was discharged because of conduct the employer considered to be in violation of its standards. The information he shared with others was not strictly confidential as the employer intended to release it at some future point. He did not share any confidential personnel information regarding any employee. He did not share any information as to the reasons for the discharges. Given the fact that the employer intended to release the information anyway, the administrative law judge concludes that Mr. Hauskins' actions did not constitute substantial misconduct as is required for a misconduct disqualification. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984).

At most, Mr. Hauskins was guilty of a good-faith error in judgment or discretion. Conduct so characterized is not considered misconduct within the meaning of the law. See 871 IAC 24.32.(1). While the employer may have had good cause to discharge, 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). For the reasons stated herein, the administrative law judge concludes that the employer has failed to satisfy its burden of proving that Mr. Hauskins should be disqualified from receiving job insurance benefits.

DECISION:

The representative's decision dated May 4, 2004, reference 03, is hereby reversed. Mr. Hauskins was discharged but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/b