

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK B RINEY
Claimant

APPEAL NO. 10A-UI-05955-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

OC: 03/21/10
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Mark Riney filed an appeal from a representative's decision dated April 13, 2010, reference 01, which denied benefits based on his separation from Qwest Corporation. After due notice was issued, a hearing was held by telephone on June 3, 2010. Mr. Riney participated personally. The employer participated by Bryan Scott, Telesales Manager, and was represented by John O'Fallon of Barnett Associates.

ISSUE:

At issue in this matter is whether Mr. Riney 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: Mr. Riney was employed by Qwest Corporation from July 6, 2009 until March 11, 2010. He was employed full time as a sales and service associate. His work involved speaking with customers over the telephone. He was discharged for adding products to a customer's account without the customer's authorization.

The final incident that prompted the discharge occurred on March 1, 2010. He added a package to the customer's account that would have resulted in \$30.00 per month in additional charges to the customer. The customer did not request or authorize the charges. The employer learned of the call on March 7 and spoke to Mr. Riney about the matter on March 8. He told the employer he had meant to add the package to a prior call and mistakenly added it to the call in question. The employer records all of its calls and reviewed the ten prior calls received by Mr. Riney. None of those customers had added the package he added to the customer's account. He was suspended on March 8 and notified of his discharge on March 11, 2010. His actions had the potential of increasing his commissions and/or his performance statistics.

Mr. Riney had received a written warning on February 23, 2010 because he misrepresented pricing information to a customer regarding television service. The cost he quoted was too high.

He had information available to explain the features of the products he was to sell. He also failed to disclose the contractual obligation for the product.

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). Mr. Riney's conduct of March 1 is sufficient, standing alone, to constitute disqualifying misconduct. He deliberately and intentionally added product to a customer's account without the customer's authorization. He did so with the intention of increasing his sales and, potentially, his income from commissions. His dishonesty was clearly contrary to the type of behavior the employer had the right to expect. His conduct had the potential of adversely affecting the employer's reputation and customer relations. His conduct also had the potential of subjecting the employer to legal action.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that substantial misconduct has been established by the evidence. Accordingly, benefits are denied.

DECISION:

The representative's decision dated April 13, 2010, reference 01, is hereby affirmed. Mr. Riney was discharged by Qwest Corporation for misconduct in connection with his employment. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs