

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALLYSON M STEPANEK**

Claimant

**APPEAL NO. 07A-UI-04352-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**UNITED STATES CELLULAR CORP**

Employer

**OC: 04/01/07 R: 03  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The employer, United States Cellular Corporation (US Cellular), filed an appeal from a decision dated April 17, 2007, reference 01. The decision allowed benefits to the claimant, Allyson Stepanek. After due notice was issued a hearing was held by telephone conference call on May 15, 2007. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Associate Relations Representative Angie Bailey and Customer Service Coach Phil Freeman. Exhibit One was admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Allyson Stepanek was employed by US Cellular from July 31, 2006 until February 15, 2007, as a full-time customer service representative (CSR). At the time of hire she attended a lengthy training period and was informed of all the rules and policies governing her job duties, and received the employee handbook which set out the employer's disciplinary policy.

One of the critical concerns of the employer is maintaining customer privacy. Before any information may be given out by the CSR, the caller must first verify certain information and also be listed on the account as being authorized to have access. US Cellular has a zero tolerance policy regarding any violation of customer privacy.

On February 15, 2007, Customer Service Coach Phil Freeman received information from the quality assurance division about a possible violation of the privacy policy by Ms. Stepanek. He listened to a recording and the caller gave the name of the account holder and the number, plus his own name. No other verification questions were asked, and the caller's name was not listed as an authorized individual. In spite of this the claimant reset the voicemail password on the account.

Mr. Freeman summoned the claimant to his office and had her listen to the recording. She acknowledged she had violated the privacy policy by allowing an unauthorized person access to account information and changing the password. Under the zero tolerance policy she was discharged.

Allyson Stepanek has received unemployment benefits since filing a claim with an effective date of April 1, 2007.

## **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant had been trained, and received updated information regarding the customer privacy policy. In spite of the training she changed the voicemail password on an account for a caller who had not been verified or authorized access. This is a violation of a known company rule and is conduct not in the best interests of the employer. The claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of April 17, 2007, reference 01, is reversed. Allyson Stepanek is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible. She is overpaid in the amount of \$1,032.00.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs