

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOMONIQUE R WRIGHT**  
Claimant

**APPEAL NO. 08A-UI-06403-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACCESS DIRECT TELEMARKETING INC**  
Employer

**OC: 06/15/08 R: 03  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Domonique Wright filed an appeal from a representative's decision dated July 10, 2008, reference 01, which denied benefits based upon her separation from Access Direct Telemarketing. After due notice was issued, a hearing was held by telephone on July 28, 2008. Ms. Wright participated personally. The employer participated by David Williams, Hearing Representative and witnesses, Ken Leffler, Greg Boehne and Stephanie Riffey.

**ISSUE:**

At issue in this matter is whether Ms. Wright was discharged for misconduct in connection her work.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from February 6, 2006 until June 17, 2008 when she was discharged for violation of company call-handling policy. The claimant was employed as a full-time customer service representative and was paid by the hour. Ms. Wright was discharged when a quality assurance review of the claimant's call handling on June 16 showed that the claimant had placed a call on hold for approximately 20 minutes after the caller had ended the telephone call. Ms. Wright was aware that placing the call on hold or otherwise making herself unavailable for additional calls was a violation of company policy and could result in her termination from employment. The employer did not consider the claimant's action to be inadvertent as Ms. Wright was aware of procedures and would have been alerted by background music when a call is placed on hold status. The claimant had previously been warned on or about June 12, 2008 for remaining on a conference call when her services were unneeded, in effect making herself unavailable for calls at that time.

It is the claimant's position that the call that she was discharged for had taken place in the past and that she had not intentionally violated company policy.

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

The question is whether the evidence in the record establishes Ms. Wright was discharged for misconduct in connection with the employment. It does. The testimony of the employer's witnesses establishes that Ms. Wright was discharged for a call that took place on or about June 16, 2008 when the claimant placed her telephone into a "hold mode" for an extended period after the caller had indicated that the call had been completed. Placing the call on hold status prevented the claimant from being routed additional inbound calls, requiring other workers to assume the workload. Ms. Wright was aware of the company policy and had been previously been warned for similar conduct.

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.

For the reasons stated herein the administrative law judge concludes that the employer has sustained its burden of proof in showing the claimant's discharge took place for misconduct in connection with her work. Unemployment insurance benefits are withheld.

## **DECISION:**

The representative's decision dated July 10, 2008, reference 01, is affirmed. The claimant was discharged for misconduct. Unemployment insurance benefits are withheld until the claimant

has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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