

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEAN M STANEK

Claimant

APPEAL NO. 07A-UI-03733-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNITED STATES CELLULAR CORP

Employer

**OC: 03/04/07 R: 03
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, US Cellular, filed an appeal from a decision dated March 28, 2007, reference 01. The decision allowed benefits to the claimant, Jean Stanek. After due notice was issued a hearing was held by telephone conference call on April 25, 2007. The claimant did not participate on her own behalf but did offer a written statement which was admitted as Exhibit A. The employer participated by Associate Relations Representative Angie Bailey and Customer Service Coach Barry Mikulas.

ISSUE:

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

FINDINGS OF FACT:

Jean Stanek was employed by US Cellular from September 11, 2006 until March 6, 2007, as a full-time customer service representative. On March 6, 2007, she took an incoming call from a customer who had a question about her bill. The claimant verified the caller's identity with the prescribed questions and then listened to her concerns.

The customer had received a bill which was almost twice the amount usually billed. Ms. Stanek referred the customer to page four of her bill which gave the date, time and number of a call which ran over 90 minutes. This resulted in "overage" charges as the customer's plan allowed for 125 minutes per month. The customer recollected that was the day she had loaned her phone to someone else, indicated she had no further questions and the call was ended.

This call had been monitored and later that day Customer Service Coach Barry Mikulas notified the claimant she was discharged for violation of the employer's privacy policies. It is against policy to give a customer the specific telephone number called from their telephone. The employer stated this customer did not get full details of all the calls made from her phone and revealing the number dialed was against policy.

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.

Iowa Code section 96.5-2-b 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:

b. If gross misconduct is established, the department shall cancel the individual's wage credits earned, prior to the date of discharge, from all employers.

The claimant apparently did violate the privacy policy by telling a customer information contained on the customer's bill. The employer does not dispute the claimant took the proper steps to identify the caller as required, and only gave her information about the call which had caused the bill to be nearly double in size. As there was no other reason for the discharge, this appears to be a one-time error in judgment. Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Newman v. IDJS, 351 N.W.2d 806 (Iowa App. 1984). The administrative law judge cannot consider the claimant's conduct to be willful or deliberate or of such a degree of repetition to be considered misconduct. Benefits are allowed.

DECISION:

The representative's decision of March 28, 2007, reference 01, is affirmed. Jean Stanek is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeyer
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs