

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

STEVE P TROUPE  
1354 H AVE NE  
CEDAR RAPIDS IA 52402

UNITED STATES CELLULAR CORP  
c/o TALX UC EXPRESS  
P O BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-04810-LT  
OC 03-28-04 R 03  
Claimant: Respondent (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/Misconduct  
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

Employer filed a timely appeal from the April 14, 2004, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on May 19, 2004. Claimant did participate. Employer did participate through Carmella Johnson. Employer's Exhibits One through Three was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time supervisor in customer service through March 24, 2004 when he was discharged. Employer audited claimant's usage of e-mails and internet sites on March 23 and found claimant was forwarding and receiving inappropriate (sexual innuendo) e-mails to and from his team members. (Employer's Exhibit Three) Others who engaged in the conduct were discharged as well. No prior warnings were issued however claimant acknowledged receipt of the policy governing personal or inappropriate use of the e-mail system.

The claimant has received unemployment benefits since filing a claim with an effective date of March 28, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

14. 15

Claimant was aware of the e-mail misuse policy and that its violation could result in immediate termination without warning. Furthermore, as a supervisor, employer was reasonable in holding him to a higher standard of conduct. He did not set the example or stop the others' violations, but engaged in it himself. This constitutes disqualifying misconduct. Benefits are denied.

41

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

#### DECISION:

The April 14, 2004, reference 01, decision is reversed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has

worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$2,208.00.

dml/