

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

FELICIA M MCCULLER  
2110 – 26<sup>TH</sup> ST APT 8  
DES MOINES IA 50316

OMNIUM WORLDWIDE INC  
7171 MERCY RD STE 333  
OMAHA NE 68106-2611

Appeal Number: 04A-UI-05695-RT  
OC: 04-25-04 R: 02  
Claimant: Appellant (1)

**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, 4<sup>th</sup> 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 for Misconduct

STATEMENT OF THE CASE:

The claimant, Felicia M. McCuller, filed a timely appeal from an unemployment insurance decision dated May 7, 2004, reference 01, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on June 14, 2004, with the claimant not participating. The claimant did not call in a telephone number, either before the hearing or during the hearing, where she or any of her witnesses could be reached for the hearing, as instructed in the notice of appeal. Penny Majeski, Director of Associate Relations, participated in the hearing for the employer, Omnim Worldwide, Inc. The administrative law judge takes

official notice of Iowa Workforce Development unemployment insurance records for the claimant.

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer as a full-time recovery specialist from September 17, 2003 until she was discharged on April 20, 2004. The claimant was discharged for inappropriate behavior, which violated the employer's professionalism policy in its handbook, a copy of which the claimant received. On April 20, 2004, the claimant's supervisor, Mark Wisham, was attempting to talk to the claimant about some client complaints about her. The claimant became angry and upset, raised her voice and yelled while in the call center where telephone calls are taken and made by employees. The claimant was aggressive and belligerent. Mr. Wisham tried to get the claimant to calm down, without success. Eventually, he sent the claimant home. The next day when the claimant returned to work she was discharged. Just three weeks earlier, the claimant had received a written warning for an argument between the claimant and a coworker, as shown at Employer's Exhibit 1. The claimant was informed that she needed to conduct herself in a professional manner and any further behavior in the future would result in termination. The claimant also received an oral warning on March 16, 2004 for being rude to debtors with whom she was speaking on the phone.

#### REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

#### 14 15 REF

In order to be disqualified to receive unemployment insurance benefits pursuant to a discharge, the claimant must have been discharged for disqualifying misconduct. The administrative law judge concludes that the employer has met its burden of proof to demonstrate by a preponderance of the evidence that the claimant was discharged for disqualifying misconduct. The employer's witness, Penny Majeski, Director of Associate Relations, credibly testified that

on April 20, 2004, the claimant became loud, aggressive, and belligerent and yelled at her supervisor, Mark Wisham, when he was attempting to talk to the claimant about client complaints about the claimant. Mr. Wisham attempted to get the claimant to calm down and she would not, so he sent the claimant home. The claimant was discharged the next day. This behavior on April 20, 2004, followed just three weeks after the claimant received a written warning for an argument between the claimant and a coworker, as shown at Employer's Exhibit 1, informing the claimant that she is required to conduct herself in a professional manner and future violations would result in her termination. The incident on April 20, 2004, occurred in the employer's call center, where telephone calls are taken and made by employees. Also, the claimant had just received an oral warning on March 16, 2004, for being rude to debtors while on the phone. Because of the claimant's aggressive and loud behavior, and because of a written warning she received just three weeks earlier, informing the claimant that she needed to be professional and a violation would result in her termination, the administrative law judge concludes that the claimant's acts were deliberate acts constituting a material breach of her duties and obligations arising out of her worker's contract of employment and evince a willful or wanton disregard of an employer's interest and at the very least is carelessness or negligence in such a degree of recurrence all as to establish disqualifying misconduct. Therefore, the administrative law judge concludes that the claimant was discharged for disqualifying misconduct, and, as a consequence, she is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until and unless she requalifies for such benefits.

**DECISION:**

The representative's decision dated May 7, 2004, reference 01, is affirmed. The claimant, Felicia M. McCuller, is not entitled to receive unemployment insurance benefits until or unless she requalifies for such benefits, because she was discharged for disqualifying misconduct.

b/