

**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**

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**Appeal Number: 06A-UI-02148-H2T  
OC: 01-22-06 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct  
Section 96.3-7 - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 10, 2006, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on March 13, 2006. The claimant did participate. The employer did participate through Angie Bailey, Human Resources Coordinator, Matt Sampson, business-to-business Support Manager and Tim Garthwaite, business-to-business Support Coach. Employer's Exhibit One was received. Claimant's Exhibit A was received.

#### FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a senior customer services specialist business-to-business full time beginning October 2, 2000 through January 24, 2006 when he was discharged.

On January 23, one of the claimant's co-workers, Beverly, received a call from someone who was inquiring about the billing address belonging to a particular cell phone number. When Beverly asked the caller, who purported to be a United States Cellular employee, for their employee ID number, the caller disconnected. She was in the process of sending out an e-mail message to her colleagues warning them that someone was trying to access the billing information of a customer, when the claimant received a call inquiring about the same account. Before Beverly could get her e-mail message sent, the claimant received a call from someone who identified himself or herself as an employee of United States Cellular working for tech services. The caller asked for the billing address for a particular cell phone number. The claimant did not ask any questions of the caller to confirm that the caller was another United States Cellular employee or to confirm that the caller had the right to access the billing information of this particular customer. The claimant gave out the billing address to someone he did not know to have authorization to have the information.

The claimant had received the employer's privacy policy for customers and knew that he was, at the minimum, to verify the name and employee ID number of the person calling to insure that they were another United States Cellular employee. The claimant did not even ask for the employee ID information. Nor did the claimant inquire as to the location of the caller or the last four digits of the social security number or the tax payer ID number associated with the account. It appears that the claimant gave out private information, that is a customer's billing address, to someone who was not authorized to have it. The claimant admits that he did not follow the employer's procedures. The claimant had received a copy of the employer's handbook which provided that violations of privacy rules and policies could result in immediate discharge.

The employer had sent a refresher e-mail to all employees reminding them about the privacy policy the very day the claimant gave out the billing address of a customer. It is clear that Beverly knew she was to at least inquire as to the employee ID number and name of the person asking for information before releasing a customer's billing information. During an interview with his supervisor and with Mr. Garthwaite, the claimant admitted that he did not follow the employer's verification policy.

The claimant has claimed and received unemployment insurance benefits after the separation from employment.

The employer did not notify the customer that their billing address had probably been released to a third party.

#### 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.

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 was under an obligation to safeguard private customer information including billing addresses. The claimant admitted that he did not follow the employer's policy for verifying someone's authority to have a billing address prior to releasing the information. The claimant knew or should have known that release of confidential information was not in the employer's best interests. If the public believes that their private information is not being safeguarded by the employer, the employer could easily lose customers who would choose not to do business with a company that will not safeguard confidential information. The claimant's co-worker illustrated that even asking for an employee ID was the minimum requirement before considering release of confidential information. The release of confidential information like a billing address can have severe consequences for the customer if the information is given to the wrong person. The employer could feasibly be held liable for any damages a customer incurs due to their negligent release of private confidential information. Because the claimant did nothing to even try to safeguard the customer's privacy, his giving out of the billing information constitutes disqualifying misconduct. Benefits are denied.

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.

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 February 10, 2006, 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 \$1,688.00.

tkh/kkf