

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY G CROSS

Claimant

APPEAL NO. 07A-UI-03341-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNITED STATES CELLULAR CORP

Employer

**OC: 09/24/06 R: 03
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

United States Cellular Corporation (USCC) filed an appeal from a representative's decision dated March 19, 2007, reference 02, which held that no disqualification would be imposed regarding Larry Cross' separation from employment. After due notice was issued, a hearing was held by telephone on April 18, 2007. Mr. Cross participated personally. The employer participated by Angie Bailey, Associate Relations Manager, and Nicole Cochran, Customer Service Coach. Exhibits One through Four were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Cross was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Cross was employed by USCC from October 9, 2006 until February 23, 2007 as a full-time customer service representative. He was discharged for violating company policies.

The final act that prompted the discharge occurred on February 22 when Mr. Cross gave call details to a customer over the telephone. Call details consist of information regarding calls placed and/or received by the customer. The employer's written policy prohibits this type of information from being disclosed over the telephone. The policy was contained in written material provided on October 16 and November 6, 2006. It was also discussed during a team meeting on February 8, 2007. The customer should be sent a reprint of their bill if they want call details. Mr. Cross received a final written warning on February 12 because he had been observed using inappropriate language on the calling floor. He used the term "Jesus Christ." On February 16, he was counseled after it was reported that he said "God damn" on the calling floor. There are approximately 200 associates on the calling floor at any given time.

Mr. Cross received a verbal warning on February 7 because he gave a customer hints to identify the customer's password. He only suggested those items that are sometimes used as passwords, such as mother's maiden name or a pet's name. Mr. Cross received a coaching on December 29 because he changed the name on an account over the telephone. The employer requires that this be done in person so that the identification of the customer can be verified. As it turned out, the customer's purse had been stolen and someone not associated with her had changed the name on the account.

Mr. Cross filed an additional claim for job insurance benefits effective February 25, 2007. He has received a total of \$2,648.00 in benefits since filing his additional claim.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Cross was discharged for violations of known company rules. He gave call details over the phone in spite of a work rule specifically prohibiting him from doing so. He changed the name on an account in spite of the employer's requirement that such changes be made in person. His conduct in both incidents had the potential of compromising the customers' right to confidentiality. Mr. Cross used the term "God damn" while on the calling floor on February 16. There was the possibility his comment could have been heard by a customer on the phone with another associate. His final disciplinary action on February 12 warned him about his language.

Mr. Cross was provided copies of the employer's policies and, therefore, was charged with knowledge of the contents. His failure to abide by the policies had the potential of adversely affecting the employer's customer relations. The administrative law judge concludes that the conduct complained of by the employer constituted a substantial disregard of the employer's standards and interests. Accordingly, benefits are denied.

Mr. Cross has received benefits since filing his additional claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated March 19, 2007, reference 02, is hereby reversed. Mr. Cross was discharged for misconduct in connection with his employment. Benefits are

withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Cross has been overpaid \$2,648.00 in job insurance benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs