

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

AMY L GROSSKREUTZ  
340 – 3<sup>RD</sup> AVE  
MARION IA 52302

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

Appeal Number: 04A-UI-02373-CT  
OC: 01/25/04 R: 03  
Claimant: Respondent (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:

United States Cellular Corporation (USCC) filed an appeal from a representative's decision dated February 19, 2004, reference 01, which held that no disqualification would be imposed regarding Amy Grosskreutz' separation from employment. After due notice was issued, a hearing was held by telephone on March 25, 2004. Ms. Grosskreutz participated personally and offered additional testimony from Beth Perkins. The employer participated by Angie Bailey, Human Resources Coordinator; Nicole Rauch, Customer Service Manager; and Trish Bulman, Customer Relations Manager.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Grosskreutz was employed by USCC from August 19, 1996 until January 29, 2004. She was last employed full time as a customer service coach. She was discharged based on an allegation that she accessed customer records in violation of a known company policy. The employer's policy prohibits employees from accessing records of family and friends as well as from accessing their own records. It was reported that Ms. Grosskreutz had been a party to accessing the records for Beth Perkins, another USCC employee who was also a friend. Ms. Grosskreutz was aware that Ms. Perkins had been making attempts to get information from her records but did not participate in accessing any computer records on her behalf. She was not present on any occasions on which Ms. Perkins may have accessed her own records. When confronted by the employer over the issue on January 28, Ms. Grosskreutz denied any involvement in accessing the prohibited records. She did advise the employer that she had handled a service call for Ms. Perkins' stepmother at some point in the past. Ms. Grosskreutz had never met the stepmother and did not consider her to be a friend. She handled the matter because the stepmother had not been able to receive a satisfactory resolution of her problem in spite of prior attempts.

The employer spoke with Ms. Perkins about the matter on January 28. She initially indicated that she and Ms. Grosskreutz had accessed the records. She then stated that Ms. Grosskreutz had not played any part in accessing the records. The allegation that Ms. Grosskreutz had accessed prohibited records was the sole reason for her discharge. She had never been disciplined for any matters during the course of her employment.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Grosskreutz was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The employer discharged Ms. Grosskreutz because it was believed she had participated in violating a known rule by helping to access a coworker's records. Ms. Grosskreutz has denied the allegation to the employer and under oath during the hearing. The employer did not present any evidence tracing a prohibited access back to Ms. Grosskreutz' work station. The coworker she was alleged to have assisted denied that she had any involvement.

Inasmuch as the employer failed to establish that Ms. Grosskreutz did, in fact, violate its policy, misconduct has not been established. While the employer may have had good cause to discharge, conduct which might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

#### DECISION:

The representative's decision dated February 19, 2004, reference 01, is hereby affirmed. Ms. Grosskreutz was discharged but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/s