

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

Appeal Number: 06A-UI-05455-DWT
OC: 04/23/06 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, 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

STATEMENT OF THE CASE:

United States Cellular Corporation (employer) appealed a representative's May 12, 2006 decision (reference 03) that concluded Christopher L. Dougan (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 12, 2006. The claimant participated in the hearing. Angie Bailey and Liana Brown, a customer service supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 3, 2005. The claimant worked as a full-time customer service representative. Since mid-February, Brown was the claimant's supervisor.

The claimant understood the employer's verification policy and received information in mid-March that an employee could be discharged for failing to follow the verification policy because the employer had a zero-tolerance policy for failing to follow the verification policy. During the claimant's shift on April 18, the claimant received a call from a customer and answered general questions. During the call, the claimant verified who he was speaking to and that the person calling was on the account. The claimant read back the caller's billing address before he asked for a password or the last four digits of the caller's social security number. When this call was randomly chosen the next day to be reviewed by Brown and the claimant, the claimant immediately recognized he had forgotten to ask for a password or the last four digits of the caller's social security number and had not followed the employer's verification process before he repeated private information – the customer's billing address.

Even though the claimant had no problems of a similar nature prior to April 18, pursuant to the employer's zero-tolerance policy, the employer discharged the claimant on April 19, 2006.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Pursuant to the employer's policies, the employer established compelling business reasons for discharging the claimant. The claimant violated the employer's policy when he failed to ask for the caller's password or the last four numbers of the caller's social security number. This isolated incident, however, does not establish that the claimant intentionally failed to follow the employer's policies. Instead, the claimant made an inadvertent mistake. The claimant did not

commit work-connected misconduct. Therefore, as of April 23, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's May 12, 2006 decision (reference 03) is affirmed. The employer discharged the claimant for compelling business reasons that do not constitute work-connected misconduct. As of April 23, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kkf