

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSH BEACH
Claimant

APPEAL NO. 11A-UI-14354-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QWEST CORPORATION
Employer

**OC: 09/25/11
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 20, 2011 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on November 29, 2011. Claimant participated. Employer participated through Sales Manager Ryan Fritchen and was represented by John O'Fallon of Barnett Associates Inc.

ISSUE:

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a sales and service associate and was separated from employment on September 22, 2011. On September 9 he violated the employer's customer abuse policy when he placed a customer on hold and then looked at the internet news for non-work purposes. Claimant told the employer during the investigation he was looking at the news and did not know what he was thinking. He testified that he had "no comment" about why the customer was on hold. The employer warned him in writing on July 22, 2011 for adding products to customers' accounts without permission. The employer audited and found violations of appropriate call handling procedures by transferring customers to another department and staying on the line rather than taking another call (call riding). He was also warned for call riding on April 7, 2011.

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 § 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.

Claimant did not rebut employer's reason for the separation, and his use of the internet to look at the news while the customer was on hold for no good-cause reason, after having been warned about call handling conduct, was misconduct sufficient to warrant a denial of benefits.

DECISION:

The October 20, 2011 (reference 01) decision is affirmed. 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw