

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EMILY K PRUNTY
Claimant

APPEAL NO. 07A-UI-05709-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**UNITED STATES CELLULAR
CORPORATION**
Employer

OC: 05/06/07 R: 03
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Emily Prunty filed an appeal from a representative's decision dated May 29, 2007, reference 01, which denied benefits based upon her separation from United States Cellular Corporation. After due notice was issued, a hearing was held by telephone on June 25, 2007. Ms. Prunty participated personally. The employer participated by Angie Bailey and Liana Woodard. Employer's Exhibits One through Three were received into evidence. Exhibit Four was withdrawn.

ISSUE:

The issue in this matter is whether Ms. Prunty was discharged for misconduct in connection with her work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from October 4, 2004 until May 9, 2007 when she was discharged for violation of company policy. Ms. Prunty held the position of full-time customer service representative and was paid by the hour. Her immediate supervisor was Liana Woodard. Ms. Prunty was discharged after it was determined that she had violated company policy by excessively using her cell phone during working hours for personal use and violating a strict company policy which prohibits customer service representatives from accessing or making changes on the accounts of friends or family members. The claimant was aware of the company policies and admitted their violation when confronted by her employer.

It is the claimant's position that she felt that she may have been singled out because she is pregnant and has taken time away from work. The claimant was observed using her cell phone in the company restroom for excessive periods and a company employee reported what appeared to be suspicious activity to company management who then investigated and determined that excessive use of the cell phone during working hours had occurred (Exhibit Two) and that the claimant had violated policy by accessing or working on the accounts of family members or friends (Exhibit Three).

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record, that the employer has sustained its burden of proof in establishing that the claimant's discharge took place under disqualifying conditions. The record establishes that Ms. Prunty was aware of the company policies which prohibited excessive use of cell phones for personal use during working hours and of the company's strict policy which prohibited customer service representatives from accessing or making changes to the accounts of friends or family members. The evidence in the record establishes that Ms. Prunty violated both policies and was discharged for the violations.

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.

For the reasons stated herein the administrative law judge finds that the claimant's separation took place for misconduct in connection with the work. Benefits are withheld.

DECISION:

The representative's decision dated May 29, 2007, reference 01, is hereby affirmed. Ms. Prunty was discharged for misconduct in connection with her employment. Benefits are withheld until

such time as she has work in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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