

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LUCAS L AUTHIER
Claimant

UNITED STATES CELLULAR CORP
Employer

APPEAL 21A-UI-12808-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/31/21
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5 (2) a – Discharge for Misconduct

STATEMENT OF THE CASE:

On May 25, 2021, the claimant, Lucas Authier, filed an appeal from the May 21, 2021, (reference 01) unemployment insurance decision that denied benefits based on a determination from an Iowa Workforce Development representative that he was discharged from his employment for disqualifying job related misconduct. The parties were properly notified about the hearing. A telephone hearing was held on August 2, 2021. Claimant Lucas Authier, participated personally. Employer United States Cellular Corp. did not register for or participate in this hearing. Official notice was taken of the administrative record.

ISSUE:

Was the claimant discharged from employment for disqualifying job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on January 27, 2020. Claimant last worked as a full-time telephone customer service representative. Claimant was separated from employment on February 4, 2021, when he was terminated for the amount of discounts he had provided to various U.S. Cellular cell phone customers that he assisted during the course of his employment. The claimant indicated on February 4, 2021, he was notified via email that he was to attend a meeting with a representative from Human Resources and Security. The employer informed the claimant that he had provided over \$50,000.00 in discounts to various customers and then had him sign a contract for repayment. The claimant signed this document and then was terminated. The claimant testified that pre pandemic customer service representatives were empowered to discount customer's bills up to \$75.00 based on their personal assessment of each customer's unique situation. At some point during the first months of the pandemic the employer sent an email to its representatives indicating that the \$75.00 was temporarily lifted. No new maximum dollar amount was provided and no end date was provided in this email. The claimant testified that he did not provide any discounts to family or friends and that he was never aware that his

practice of discounting customers' bills was against company policy nor did anyone over counsel him that he was providing too many discounts or that the amount was exceeding company policy.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). In an at-will employment environment, an employer may discharge an employee for any number of reasons or no reason at all, if it is not

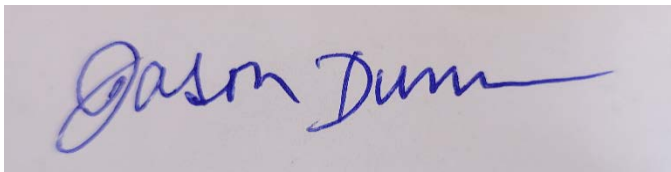
contrary to public policy. However, if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Emp't Appeal Bd.*, 423 N.W.2d 211 (Iowa Ct. App. 1988).

The employer did not meet its burden in establishing job disqualifying misconduct. The claimant's testimony was credible and the employer's determination not to participate in this hearing imputes additional weight to the claimant's statements. The claimant was discharged for no disqualifying reason. Benefits are allowed.

DECISION:

The May 21, 2021, reference 01, unemployment insurance decision is REVERSED. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Jason Dunn
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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August 9, 2021
Decision Dated and Mailed

jd/scn