

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

NATALIE R BECKER  
640 BENTLEY DR #2  
MARION IA 52302

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

Appeal Number: 05A-UI-08464-CT  
OC: 07/10/05 R: 03  
Claimant: Respondent (2)

**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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

United States Cellular Corporation (USCC) filed an appeal from a representative's decision dated August 3, 2005, reference 01, which held that no disqualification would be imposed regarding Natalie Becker's separation from employment. After due notice was issued, a hearing was held by telephone on September 1, 2005. Ms. Becker participated personally. The employer participated by Angie Bailey, Human Resources Coordinator, and Karleene Walters, Customer Service Coach.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Becker was employed by USCC from April 5, 2004 until July 14, 2005 as a full-time customer service representative. She was discharged for using profanity on the calling floor in violation of a known company rule. She was talking with a coworker on July 13 when she learned that the work stations were being relocated again. Ms. Becker responded by twice saying, "this is fucking bullshit." She did not know whether other associates were on the phone with customers at the time. The matter was reported to management and, as a result, Ms. Becker was discharged. The employee handbook Ms. Becker received advises employees that profanity is prohibited.

Ms. Becker has been paid a total of \$1,156.00 in job insurance benefits since filing her claim effective July 10, 2005.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Becker 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. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Becker was discharged for using profanity on the calling floor in violation of a known rule. It is possible her profanity could have been overheard by customers on the phone with other associates. Her conduct in twice saying, "this is fucking bullshit" while on the calling floor constituted a substantial disregard of the standards she knew the employer expected of her. For the reasons stated herein, it is concluded that disqualifying misconduct has been established by the evidence. Accordingly, benefits are denied.

Ms. Becker has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

#### DECISION:

The representative's decision dated August 3, 2005, reference 01, is hereby reversed. Ms. Becker was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked 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. Ms. Becker has been overpaid \$1,156.00 in job insurance benefits.

cfc/kjw