

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RYAN W INGERSOLL
Claimant

APPEAL NO: 13A-UI-00097-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

AT&T MOBILITY SERVICES LLC
Employer

OC: 12/02/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated December 24, 2012, reference 01, that held he was discharged for misconduct on December 3, 2012, and benefits are denied. A telephone hearing was held on February 5, 2013. The claimant participated. Susan Collins, Area Manager, and Jacqueline Jones, Representative, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds The claimant began employment on June 1, 2009, and last worked for the employer as a full-time customer service team manager at a Davenport call center on November 19, 2012. The employer suspended claimant and discharged him on December 3 for falsification of documents and stat manipulation.

An employer senior vice president sent an e-mail message to claimant and other employees on March 23, 2012. All employees were directed that customer interactions (ACE survey) be entered properly. Correctly documenting customer satisfaction is an integrity issue. The claimant and his representatives could earn commission based on customer satisfaction surveys. The claimant received the business code of conduct.

An employee reported a questionable stat manipulation issue involving claimant and a subordinate representative to manager Collins on November 12. She commenced an investigation that was concluded on November 29. Her investigation concluded that claimant had manipulated stats and falsified information into the employer billing system that violated the business code of conduct.

Collins confronted claimant on December 3 with the investigative information and let him review it. Claimant admitted stat manipulation at representative request(s), but he denied doing it for personal financial gain. Collins terminated claimant for violation of the employer business code.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

The administrative law judge concludes the employer has established claimant was discharged for misconduct in connection with employment on December 3, 2012.

The employer March 23 communication with the Collins staff meeting on March 27 established the importance of following the business code of conduct policy. Claimant violated the code by agreeing to representative requests to manipulate stats regarding customer satisfaction (ACE survey) surveys that constitute job disqualifying misconduct.

DECISION:

The department decision dated December 24, 2012, reference 01, is affirmed. The claimant was discharged for misconduct on December 3, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/tll