

**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**

**KIM M CRAIG
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**UNITED STATES CELLULAR CORP
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 06A-UI-03876-DW
OC: 03/12/06 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party request the Appeals Section to reopen the record at the address listed at the top of this decision or 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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Kim M. Craig (claimant) appealed a representative's March 29, 2006 decision (reference 01) that disqualified her from receiving unemployment insurance benefits, and held the account of United States Cellular Corporation (employer) was not subject to charge because the claimant had been discharged for disqualifying reasons. The claimant requested an in-person hearing. A hearing notice was mailed on June 30, 2006, informing the parties a hearing would be held in Cedar Rapids on July 18, 2006. The claimant's hearing notice was returned because the claimant had moved and left no forwarding address. The employer agreed a decision could be made based on information in the administrative record. Based on the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on July 27, 1998. The claimant worked full-time.

During the claimant's employment, she received several warnings for attendance problems. The employer gave the claimant a second written warning for attendance issues on December 12, 2002. On March 15, 2005, the claimant overslept and failed to report to work on time. The employer gave the claimant a written warning for this attendance problem. The employer issued the claimant a final written warning in mid-May 2005 after she had reported to work late on May 9 and did not report to work on time after a break in early May.

On January 13, 2006, the employer gave the claimant a written warning for failing to properly notify the employer she was unable to work as scheduled. The warning informed the claimant that if she had any more attendance issues or violations, the employer would discharge her.

In early March 2006, the claimant took an unscheduled break. On March 7, 2006, the employer discharged the claimant for again failing to work as scheduled.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code section 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew, or should have known, her job was in jeopardy when the employer gave her a warning in January for continued attendance issues. The employer specifically warned the claimant that if she violated any part of the employer's attendance, the employer would discharge her. In early March 2006, the claimant failed to work as scheduled and violated the employer's attendance by taking an unscheduled break. Based on information in the administrative record, the claimant committed work-connected misconduct and is disqualified from receiving benefits as of March 12, 2006.

DECISION:

The representative's March 29, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of March 12, 2006. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged for benefits paid to the claimant.

dlw/cs