

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY C PFEIFER
Claimant

APPEAL NO. 06A-UI-08700-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNITED STATES CELLULAR CORP
Employer

OC: 07/30/06 R: 03
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Timothy Pfeifer filed an appeal from a representative's decision dated August 21, 2006, reference 01, which denied benefits based on his separation from United States Cellular Corporation (USCC). After due notice was issued, a hearing was held by telephone on September 14, 2006. Mr. Pfeifer participated personally and was represented by Randy Schueller, Attorney at Law. The employer participated by Christine Verstegen, Human Resources Manager, and Ken Gordon, Network Operations Manager. The hearing was recessed pending receipt of additional documentation. The hearing reconvened on November 17, 2006. Exhibits 1 through 11 were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Pfeifer was separated from employment for any disqualifying reason.

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: Mr. Pfeifer was employed by USCC from May 8, 1995 until July 27, 2006. He was last employed full time as a senior network field engineer. He was discharged for misuse of the company credit card. The card was issued in Mr. Pfeifer's name and billing statements were sent to him at home. He was responsible for making the credit card payments. On or about December 4, 2004, Mr. Pfeifer completed an online application for the corporate credit card. One of the provisions spelled out in the application is that the card is not to be used for personal purchases. Approximately one week before Mr. Pfeifer's separation, the employer received an anonymous complaint that Mr. Pfeifer was using his card for personal purchases.

Mr. Pfeifer acknowledged that he used the corporate credit card to make personal purchases. He did so during the bulk of the 18 months he had the card. He was given permission from his supervisor to use the card for personal expenses while he was out of town for medical treatment and to purchase medications. Mr. Pfeifer also used the card to purchase personal items such as motorcycle parts, flowers, groceries, and food. When confronted on July 27, 2006, Mr. Pfeifer acknowledged that he knew the employer's policy regarding use of the credit card. He also indicated he understood what he did was wrong.

Mr. Pfeifer had to file a monthly expense report in order to receive reimbursement for expenses. He never claimed reimbursement for any purchases that were personal. Since he began using the card in approximately January of 2005, there were only three or four occasions on which he submitted the credit card statement with his request for reimbursement. Mr. Pfeifer's misuse of the corporate credit card was the sole reason for his discharge from USCC.

REASONING AND CONCLUSIONS OF LAW:

Mr. Pfeifer was discharged by USCC. 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). Mr. Pfeifer was discharged for violating a known company rule. He was advised in writing at the time he applied for the credit card that its use was limited to work-related purchases. The fact that he asked his supervisor if he could use the card for personal purchases when he was out of town for medical treatment establishes that he knew making personal purchases was prohibited. If he believed such purchases were allowed, he would not have sought permission to make personal purchases when receiving medical treatment.

Mr. Pfeifer deliberately and intentionally violated the employer's policy by repeatedly using the company credit card for personal purchases. The administrative law judge appreciates that Mr. Pfeifer's conduct did not pose any direct harm to the employer. The bill came in his name to his address and he was responsible for making payments to the credit card company. If the bill was not paid, Mr. Pfeifer, not the employer, would be liable. However, the employer had the right to expect employees to obey reasonable directives regardless of whether a violation would result in harm to the employer. The employer was not aware that Mr. Pfeifer was using the company credit card for personal purchase until July of 2006. The employer did receive approximately four credit card statements with Mr. Pfeifer's request for reimbursement. The purchases on the credit card were not so clearly personal that the employer should have known he was using the company card for personal matters.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that misconduct has been established. Mr. Pfeifer's repeated violation of a known company rule constituted misconduct within the meaning of the law. Accordingly, benefits are denied.

DECISION:

The representative's decision dated August 21, 2006, reference 01, is hereby affirmed. Mr. Pfeifer was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw